

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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1	UNITED STATES OF AMERICA,	:	Case No. 1:20-cr-00142-1
2		:	
3	Plaintiff,	:	Jury Trial, Day 4
4		:	Friday, June 24, 2022
5	- v -	:	
6		:	9:00 a.m.
7	ALEXANDER SITTENFELD, a/k/a	:	
8	"P.G. Sittenfeld,"	:	
9	Defendant.	:	Cincinnati, Ohio

- - -

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE DOUGLAS R. COLE, DISTRICT JUDGE

- - -

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Proceedings recorded in stenotype.

Transcript produced with computer-aided transcription.

1 P R O C E E D I N G S

2 (In open court at 8:55 a.m.)

3 - - -

4 THE COURT: Good morning. We're here this morning in
5 the matter of the United States of America versus Alexander
6 Sittenfeld. It's case number 1:20-cr-142. We're here to
7 resume the trial in the matter.

8 Before we bring in the jury, I did just want to note on
9 the record, and I think you received an email this morning. I
10 did end up sharing some demographic information about the jury
11 with The Enquirer in response to the motion that they filed.

12 And I have provided both parties to the lawsuit with this
13 demographic information that I provided to the jurors as well.
14 You received that?

15 MR. SINGER: Your Honor, I saw the notice go through
16 on ECF.

17 MR. C. MATTHEW RITTGERS: Yes, Your Honor.

18 THE COURT: Very good. Is there anything we need to
19 discuss before we bring in the jury this morning?

20 MS. GAFFNEY PAINTER: Very briefly, Your Honor.
21 Today the government intends to offer into evidence a
22 recording that is quite long.

23 I was asking the Court if it would be all right if I sat
24 down while that recording played?

25 THE COURT: Sure.

1 MS. GAFFNEY PAINTER: Thank you.

2 THE COURT: Anything else we need to discuss before
3 we bring in the jury?

4 MS. GAFFNEY PAINTER: No. Thank you.

5 MR. C. HENRY RITTGERS: No, Your Honor.

6 THE COURT: And it sounds like we had a near miss
7 with a juror this morning, in terms of almost riding up the
8 elevator with one of the parties.

9 To that person's credit, they ended up taking a different
10 elevator, so that was good. And it was Mr. Sittenfeld, I
11 think. It does seem like the jurors are taking that
12 obligation seriously. It was reported to me, so that's all
13 good.

14 Are all the jurors here, Scott?

15 COURTROOM DEPUTY: Checking on that now. They're on
16 their way down.

17 THE COURT: Ms. Gaffney Painter and Mr. Singer, just
18 in terms of planning, does the government have a sense of --
19 as of now, given how long it's taken to get to where we're at,
20 when it's likely you would be resting your case, or not
21 really?

22 MR. SINGER: It's a little hard to tell, Your Honor.

23 THE COURT: Sure.

24 MR. SINGER: I think we'll certainly have a better
25 sense after the current witness is done. May we revisit after

1 that?

2 THE COURT: Yes. Absolutely. I'm just trying to
3 plan ahead a little bit here.

4 I should also let the parties know I have a plea hearing
5 in another matter at 12:30 today, so we're going to need to be
6 mindful of the time around that time.

7 I don't think it will impact how long lunch needs to be,
8 but we may need to start lunch around 12:30 and return around
9 1:30 or so.

10 MR. SINGER: Sure. That's fine.

11 (Jury in at 9:01 a.m.)

12 THE COURT: Good morning, ladies and gentlemen of the
13 jury. I hope you had a restful evening and avoided the
14 temptation to watch news or read the newspapers.

15 We're back, and we did a little better job of getting
16 started promptly this morning. So we're going to pick up
17 where we left off with the government's case.

18 And Special Agent Holbrook, I'll remind you, sir, that
19 you remain under oath.

20 THE WITNESS: Yes, Judge.

21 THE COURT: You may proceed.

22 MS. GAFFNEY PAINTER: Thank you, Your Honor.

23 CONTINUED DIRECT EXAMINATION

24 BY MS. GAFFNEY PAINTER:

25 Q. Special Agent Holbrook, good morning.

HOLBROOK - CONT'D DIRECT

1 A. Good morning.

2 Q. Yesterday, we went through a lot of recordings.

3 A. Yes.

4 Q. And I'd like to go back to November 7, 2018.

5 Will you please go in your exhibit binder to tab USA 15F.

6 A. Yes.

7 Q. Do you recognize this?

8 A. Yes, I do.

9 Q. What is it?

10 A. This is an audio recording that occurred in the
11 restaurant on November 7, 2018.

12 Q. And how do you know that?

13 A. I know that because I've reviewed this disk, and I placed
14 my initials on it.

15 MS. GAFFNEY PAINTER: The government moves for the
16 admission of Government Exhibit USA 15F.

17 THE COURT: Any objection?

18 MR. C. HENRY RITTGERS: I'm trying to find that.

19 MR. C. MATTHEW RITTGERS: It's an audio.

20 MR. C. HENRY RITTGERS: It's the audio?

21 THE COURT: Audio recording at the restaurant.

22 MR. C. HENRY RITTGERS: No objection, Your Honor.

23 THE COURT: USA 15F is admitted without objection.

24 Q. Special Agent Holbrook, will you please turn to the next
25 tab in your binder, USA 15G.

1 A. Yes.

2 Q. Do you recognize this?

3 A. I do.

4 Q. What is it?

5 A. This is a video and audio recording of the events that
6 occurred in the apartment on November 7, 2018.

7 Q. How do you know that?

8 A. I know that because I reviewed this disk, and I placed my
9 initials on it.

10 MS. GAFFNEY PAINTER: The government moves for the
11 admission of Government Exhibit USA 15G.

12 MR. C. HENRY RITTGERS: No objection, Your Honor.

13 THE COURT: USA 15G is admitted without objection.

14 Q. To help orient us all. Yesterday, the government
15 admitted USA 15A and 15B. Those were segments of the meeting
16 at the Nada restaurant, and those were segments of the meeting
17 at the apartment. Do you recall that, Special Agent Holbrook?

18 A. Yes.

19 Q. These recordings, 15F and 15G, is the entire recording
20 for both the Nada meeting and the entire recording for the
21 interaction in the apartment; is that right?

22 A. That is correct.

23 MS. GAFFNEY PAINTER: Okay. Your Honor, yesterday we
24 had some technical difficulties playing a voicemail that was
25 admitted into evidence as USA 21J, with its transcripts at

1 USA 21K.

2 May we publish this exhibit to the jury at this time?

3 THE COURT: That's the one that, I believe, you had
4 the special agent read to the jury; is that right?

5 MS. GAFFNEY PAINTER: Yes. That's correct.

6 THE COURT: Yes, you may do so. Ladies and gentlemen
7 of the jury, it will be 21K in your binder.

8 (Video played.)

9 MS. GAFFNEY PAINTER: Your Honor, before we ended
10 yesterday, we were attempting to publish USA 26A, with the
11 transcript at USA 26B, and we encountered some technical
12 difficulties.

13 These exhibits have been admitted into evidence, and we
14 would request permission to publish this at this time to the
15 jury?

16 THE COURT: You may do so. It will be 26B, ladies
17 and gentlemen of the jury.

18 (Audio played.)

19 Q. Special Agent Holbrook, there was a reference in USA 26A
20 to Laura Brunner. Who is Laura Brunner?

21 A. Laura Brunner is the executive director of the port.

22 Q. What is "the port"?

23 A. The port is a quasi-governmental redevelopment agency
24 that focuses on taking blighted property, and they have
25 financing tools that they can utilize to return the blighted

1 property back to its highest and best use.

2 Q. The call we listened to at USA 26A happened on May 2,
3 2019. What else of investigative significance happened on
4 May 2, 2019?

5 A. Mr. Sittenfeld met with Rob on that date.

6 Q. Did anyone else attend that meeting?

7 A. No.

8 Q. Was that meeting recorded?

9 A. Yes.

10 Q. If you could, please, turn in your binder to tab USA 26C.

11 A. Yes.

12 Q. Do you recognize this?

13 A. I do.

14 Q. What is it?

15 A. This is a recording of the May 2, 2019 meeting between
16 Mr. Sittenfeld and Rob.

17 Q. How do you know that?

18 A. I reviewed this disk, and I placed my initials on the
19 disk after review.

20 MS. GAFFNEY PAINTER: The government moves for
21 admission of USA 26C.

22 MR. C. MATTHEW RITTGERS: Your Honor, I would just
23 like to note, for the record, that it's a partial recording;
24 it's not the entire interaction.

25 THE COURT: I imagine Ms. Gaffney Painter will make

1 that clear in just a second here.

2 MR. C. MATTHEW RITTGERS: Thank you.

3 THE COURT: So are you objecting or just noting that?

4 MR. C. MATTHEW RITTGERS: No objection.

5 THE COURT: USA 26C is admitted without objection.

6 Q. Special Agent Holbrook, will you please turn to the tab
7 in your binder marked USA 26D.

8 A. Yes.

9 Q. Do you recognize this?

10 A. I do.

11 Q. What is it?

12 A. It is a transcript of the May 2, 2019 recording.

13 Q. And have you reviewed it for accuracy?

14 A. I have.

15 MS. GAFFNEY PAINTER: The government moves for the
16 admission of Government Exhibit USA 26D.

17 MR. C. HENRY RITTGERS: No objection, Your Honor.

18 THE COURT: USA 26D is admitted without objection.

19 Q. Before we publish this exhibit and have the jury review
20 the transcript, I would like to note the time stamps for the
21 record.

22 And I would also like to draw the Court's attention to
23 this is a clip we have discussed that the defendant had
24 requested a broader range to be played. And we have that
25 broader range, it just will not be in the transcript.

1 And I believe that what Your Honor had proposed was an
2 advice to the jury about how to interpret that.

3 THE COURT: I see. Okay. So with this clip, there's
4 going to be some additional material played as to which you
5 don't have a transcript. Don't attribute the lack of a
6 transcript to any party; it's no party's fault.

7 There's part of it where you're just going to have to
8 hear and do your best to kind of listen and hear what's said.
9 It won't exactly match the transcript that you're looking at.

10 You may proceed.

11 MS. GAFFNEY PAINTER: Thank you, Your Honor. And now
12 I will note for the record the time stamps that we will be
13 playing.

14 First, we will be playing 21:33 to 23:01. That will be
15 transcribed. And then we will continue to play, at the
16 defendant's request, until 24:19.

17 The second clip will be 38:55 to 39:48.

18 The third clip is 1:25:38 to 1:26:04.

19 Your Honor, may we publish to the jury?

20 THE COURT: You may.

21 (Audio played.)

22 Q. Special Agent Holbrook, there was reference in USA 26C to
23 "Jay." Who is Jay?

24 A. Jay Kincaid.

25 Q. Let's move now to June 25, 2019. Was there a call that

1 day between Rob and Sittenfeld?

2 A. There was.

3 Q. Was that call recorded?

4 A. It was not recorded in its entirety.

5 Q. Why is that?

6 A. There was a technical delivery issue on the provider's
7 end that caused that call to drop. I think we're familiar
8 with calls dropping when we're talking to someone. That was
9 the same issue here.

10 It was out of the control of the case agent, and it was
11 out of the control of Rob, who made the call.

12 Q. The next day, June 26, 2019, what happened in Cincinnati
13 City Council?

14 A. This was the date that the Cincinnati City Council voted
15 to transfer the 435 Elm property to the port.

16 Q. If you could, please, turn in your exhibit binder to the
17 tab marked USA 3C.

18 A. Yes.

19 Q. Do you recognize this?

20 A. I do.

21 Q. What is it?

22 A. This is a memo, with a following city ordinance regarding
23 the transfer.

24 Q. How do you know that?

25 A. I've reviewed this document.

HOLBROOK - CONT'D DIRECT

1 MS. GAFFNEY PAINTER: The government moves for the
2 admission of Government Exhibit USA 3C.

3 MR. C. HENRY RITTGERS: No objection.

4 THE COURT: USA 3C is admitted without objection.

5 Q. Now, Special Agent Holbrook, if you could, please, turn
6 to the tabs USA 3D and USA 3E.

7 A. Yes.

8 Q. Do you recognize these?

9 A. I do.

10 Q. What are they?

11 A. 3D is the city council minutes from June 26, 2019.

12 And 3E is an excerpt of that city council meeting on
13 June 26, 2019.

14 Q. How do you know that?

15 A. I have reviewed this disk and put my initials on it.

16 MS. GAFFNEY PAINTER: The government moves for the
17 admission of Government Exhibits USA 3D and 3E.

18 MR. C. HENRY RITTGERS: No objection, Your Honor.

19 THE COURT: USA 3D and 3E are admitted without
20 objection.

21 Q. Now if you could, Special Agent Holbrook, please turn to
22 tab USA 3F.

23 A. Yes.

24 Q. Do you recognize this?

25 A. I do.

1 Q. What is it?

2 A. This is a partial transcript of the June 26, 2019 city
3 council meeting.

4 Q. Have you reviewed it for accuracy?

5 A. I have.

6 MS. GAFFNEY PAINTER: The government moves for the
7 admission of Government Exhibit USA 3F.

8 MR. C. HENRY RITTGERS: No objection.

9 THE COURT: USA 3F is admitted without objection.

10 MS. GAFFNEY PAINTER: Your Honor, permission to
11 publish this exhibit to the jury?

12 THE COURT: 3F, or which exhibit?

13 MS. GAFFNEY PAINTER: I apologize. USA 3E.

14 THE COURT: You may do so.

15 MS. GAFFNEY PAINTER: Before we begin, I would just
16 like to note, for the record, which portions of this exhibit
17 have been transcribed.

18 From 1:40:18 to 1:40:40.

19 And the second piece that is transcribed is 1:43:43 to
20 1:44:51.

21 THE COURT: And 3F, I think, is available to the
22 jurors in the transcript book; is that right?

23 MS. GAFFNEY PAINTER: That's correct.

24 THE COURT: Ladies and gentlemen, I believe it's the
25 first tab in the transcript binder.

1 MS. GAFFNEY PAINTER: And, Your Honor, one more
2 procedural matter.

3 We will be opening a large complete file and then
4 dragging to the relevant time portion. It may be approximate
5 where the drag drops, but those timestamps I gave are the
6 timestamps for the transcript.

7 THE COURT: Thank you.

8 A. Counselor, may I clarify something?

9 Q. Certainly.

10 A. The disk actually contains the entire city council
11 meeting, as opposed to that clip of it, so I want to clarify
12 that.

13 MS. GAFFNEY PAINTER: May we proceed with
14 publication?

15 THE COURT: You may.

16 (Audio played.)

17 Q. Special Agent Holbrook, directing your attention to
18 Government Exhibit USA 3D, which is already in evidence, the
19 minutes of the council meeting --

20 MS. GAFFNEY PAINTER: With the Court's permission,
21 I'd like to display page 18 of already admitted USA 3D?

22 THE COURT: You may do so.

23 Q. Special Agent Holbrook, I'm directing you to page 18,
24 item number 201901098, and it is located at the bottom of the
25 page that is displayed, which is page 18 of USA 3D.

HOLBROOK - CONT'D DIRECT

1 Will you please read this for the jury?

2 A. Yes. "Item 201901098, ordinance emergency, dated
3 6.19.2019, submitted by Patrick Duhaney, city manager,
4 authorizing the city manager to execute a sale agreement with
5 the Hamilton County Land Reutilization Corporation and the
6 Port of Greater Cincinnati Development Authority, pursuant to
7 which the City of Cincinnati will sell for one dollar the
8 property located at 435 Elm Street, in the Central Business
9 District of Cincinnati, commonly known as Convention Place
10 Mall, together with the adjacent pocket park, in order to
11 facilitate the redevelopment of the property and the
12 remediation of existing hazardous conditions at the site."

13 Q. Special Agent Holbrook, let's move now to July 8, 2019.
14 If you could turn in your binder to the tab marked USA 28A.

15 A. Yes.

16 Q. Do you recognize this?

17 A. I do.

18 Q. What is it?

19 A. This is a disk containing a July 8th, 2019 meeting
20 between Mr. Sittenfeld, Brian, and Rob.

21 Q. How do you know that?

22 A. I reviewed this disk, and I placed my initials on the
23 disk after review.

24 MS. GAFFNEY PAINTER: The government moves for the
25 admission of Government Exhibit USA 28A.

1 MR. C. HENRY RITTGERS: No objection, Your Honor.

2 THE COURT: USA 28A is admitted without objection.

3 Q. Special Agent Holbrook, will you please turn now to the
4 tab in your binder marked USA 28B.

5 A. Yes.

6 Q. Do you recognize this?

7 A. I do.

8 Q. What is it?

9 A. This is a transcript dated July 8, 2019, of the recorded
10 meeting.

11 Q. Have you reviewed it for accuracy?

12 A. I have.

13 MS. GAFFNEY PAINTER: The government moves for the
14 admission of Government Exhibit USA 28B.

15 MR. C. HENRY RITTGERS: No objection.

16 THE COURT: USA 28B is admitted without objection.

17 MS. GAFFNEY PAINTER: Your Honor, we seek permission
18 to publish to the jury, but before doing so, we'd like to put
19 the timestamps into the record.

20 THE COURT: Please do so.

21 MS. GAFFNEY PAINTER: The first segment we will be
22 publishing is 46:09 to 47:20.

23 The second segment is 1:06:17 to 1:08:42.

24 The third segment is 1:10:38 to 1:11:16.

25 THE COURT: It says 18 in mine. 16?

1 MS. GAFFNEY PAINTER: Oh, forgive me, Your Honor. It
2 should be 18 and not 16.

3 THE COURT: Very good.

4 MS. GAFFNEY PAINTER: Thank you. May we publish this
5 to the jury?

6 THE COURT: You may.

7 (Audio played.)

8 Q. There was reference in 28A to a sports book.

9 What is your understanding as to what a sports book is in
10 the context of this investigation?

11 A. My understanding is that sports book is, in this context,
12 was a legal sports gambling facility that was going to be
13 placed in the 435 Elm project.

14 And by way of background, in May of 2018, the United
15 States Supreme Court struck down a law that paved the way for
16 states to make their own decisions on sports gaming.

17 And during the course of the investigation, the Ohio
18 General Assembly was debating on if they wanted sports
19 gambling to be legal in the state and how they were going to
20 legislate that.

21 Q. There was also discussion in Government Exhibit USA 28A
22 of Vinny. Prior to this meeting, what decision did you make
23 about the participation of Vinny?

24 A. Prior to this meeting, we decided that we were going to
25 introduce Vinny into the investigation as an investor, and

1 particularly an investor in the sports book side of 435 Elm.

2 Q. Let's go now to August 20, 2019.

3 If you could, please, turn to the tab in your binder
4 marked USA 29A.

5 A. Yes.

6 Q. Do you recognize this?

7 A. I do.

8 Q. What is it?

9 A. This is a disk containing an audio recording between
10 Mr. Sittenfeld and Rob on August 20, 2019.

11 Q. How do you know that?

12 A. I recorded this disk -- or, excuse me. I reviewed this
13 disk, and I placed my initials on it.

14 MS. GAFFNEY PAINTER: The government moves for
15 admission of Government Exhibit USA 29A.

16 MR. C. HENRY RITTGERS: No objection.

17 THE COURT: USA 29A is admitted without objection.

18 Q. Now, Special Agent Holbrook, if you could, please, turn
19 to Tab USA 29B.

20 A. Yes.

21 Q. Do you recognize this?

22 A. I do.

23 Q. What is it?

24 A. It is an August 20, 2019 transcript of that recording
25 from Mr. Sittenfeld and Rob.

1 Q. Have you reviewed it for accuracy?

2 A. Yes, I have.

3 MS. GAFFNEY PAINTER: The government moves for the
4 admission of Government Exhibit USA 29B.

5 MR. C. HENRY RITTGERS: No objection.

6 THE COURT: USA 29B is admitted without objection.

7 MS. GAFFNEY PAINTER: Your Honor, we would request
8 permission to publish, but before doing so, would like to note
9 on the record the timestamps that will appear in the
10 transcript.

11 THE COURT: You may do so.

12 MS. GAFFNEY PAINTER: We will start at the beginning,
13 00:00, and play to 00:07.

14 The second segment is 41:6:36. And the final segment is
15 6:59 until the end. May we publish?

16 THE COURT: You may. Ladies and gentlemen of the
17 jury, you should have a 29B tab in your transcript binder.

18 (Audio played.)

19 Q. Let's move nine days ahead, to August 29, 2019.

20 Now, if you could turn in your binder to the tab marked
21 USA 29C.

22 A. Yes.

23 Q. Do you recognize this?

24 A. Yes.

25 Q. What is it?

1 A. This is a disk that contains an audio recording from
2 August 29, 2019, of a telephone call between Mr. Sittenfeld
3 and Mr. Ndukwe.

4 Q. How do you know that?

5 A. I reviewed this disk and placed my initial on it.

6 MS. GAFFNEY PAINTER: The government moves for the
7 admission of Government Exhibit USA 29C.

8 MR. C. HENRY RITTGERS: No objection.

9 THE COURT: USA 29C is admitted without objection.

10 Q. Special Agent Holbrook, please turn to the tab USA 29D.

11 A. Yes.

12 Q. Do you recognize this?

13 A. I do.

14 Q. What is it?

15 A. This is a transcript of the August 29, 2019 telephone
16 call between Mr. Sittenfeld and Ndukwe.

17 Q. Have you reviewed it for accuracy?

18 A. I have.

19 MS. GAFFNEY PAINTER: Your Honor, the government
20 moves for admission of Government Exhibit USA 29D.

21 MR. C. HENRY RITTGERS: No objection.

22 THE COURT: USA 29D is admitted without objection.

23 MS. GAFFNEY PAINTER: Your Honor, may we publish this
24 to the jury?

25 THE COURT: You may.

1 (Audio played.)

2 Q. Let's move now to September 19, 2019. If you could turn
3 in your binder to what's been marked for identification as
4 USA 29E.

5 A. Yes.

6 Q. Do you recognize this?

7 A. I do.

8 Q. What is it?

9 A. This is a disk containing a recorded telephone call
10 between Rob and Mr. Sittenfeld.

11 Q. How do you know that?

12 A. I reviewed this disk, and I placed my initials on it.

13 MS. GAFFNEY PAINTER: The government moves for the
14 admission of Government Exhibit USA 29E.

15 MR. C. HENRY RITTGERS: No objection.

16 THE COURT: USA Exhibit 29E is admitted without
17 objection.

18 Q. Special Agent Holbrook, if you could turn to the next
19 tab, USA 29F.

20 A. Yes.

21 Q. Do you recognize this?

22 A. I do.

23 Q. What is it?

24 A. This is a transcript of the September 19, 2019 recorded
25 call between Mr. Sittenfeld and Rob.

1 Q. Have you reviewed it for accuracy?

2 A. Yes.

3 MS. GAFFNEY PAINTER: The government moves for the
4 admission of Government Exhibit USA 29F.

5 MR. C. HENRY RITTGERS: No objection, Your Honor.

6 THE COURT: USA 29F is admitted without objection.

7 MS. GAFFNEY PAINTER: Your Honor, may we publish this
8 exhibit to the jury?

9 THE COURT: You may. And ladies and gentlemen of the
10 jury, you should have a tab that's marked 29F in your
11 transcript book.

12 (Audio playing.)

13 Q. Special Agent Holbrook, also in September 2019, were
14 there lawsuits of significance to Mr. Ndukwe filed that month?

15 A. Yes, there was.

16 Q. Did those lawsuits, and the allegations within them,
17 receive publicity?

18 A. Yes, they did.

19 Q. All right. Let's move now to September 24, 2019. What
20 happened of investigative significance that day?

21 A. Mr. Sittenfeld and his chief of staff, Chris Dalton, met
22 with Vinny, Rob, and Brian, in a hotel room in Columbus.

23 Q. Why was the meeting held in Columbus?

24 A. The meeting was held in Columbus because, as we just
25 heard, Mr. Sittenfeld was going to be there for an event.

1 And in addition to that, Vinny, Rob, and Brian had
2 already planned to be in Columbus on a related but separate
3 investigation.

4 Q. Why was the meeting in a hotel room?

5 A. They didn't have an apartment or condo in Columbus, so
6 that's where they stayed, in a hotel room.

7 Q. Were there any investigative advantages afforded by
8 having the meeting in a hotel room?

9 A. Yes. So in addition to that, the hotel room was quiet.
10 It was private. It provided an environment to capture quality
11 audio and video recordings, and it's an environment that we
12 could control, as opposed to a public restaurant or a public
13 place that would be loud and difficult to hear the
14 conversations.

15 Q. Was that meeting recorded?

16 A. It was.

17 Q. How was that meeting recorded?

18 A. The meeting was recorded with both audio and audio/video
19 recording devices.

20 Q. Were those audio and audio/video recording devices
21 hidden?

22 A. Yes.

23 Q. Will you please turn to your binder to the tab USA 30A.

24 A. Yes.

25 Q. Do you recognize this?

1 A. I do.

2 Q. What is it?

3 A. This is a disk containing the video recording of the
4 September 24, 2019 meeting.

5 Q. How do you know that?

6 A. I've reviewed this disk and placed my initials on it.

7 MS. GAFFNEY PAINTER: The government moves for the
8 admission of Government Exhibit USA 30A.

9 MR. C. MATTHEW RITTGERS: Your Honor, this is just a
10 clarification. Is that the entirety of the interaction, 30A,
11 or just parts of it?

12 THE COURT: Ms. Gaffney Painter?

13 MS. GAFFNEY PAINTER: Bear with me just a moment.
14 May I confer with my colleagues?

15 THE COURT: You may.

16 MS. GAFFNEY PAINTER: Your Honor, to clarify, so 30A
17 is the video recording that contains particular excerpts.

18 The entire video recording of the entire interaction is
19 USA 30F, which we will also be seeking to admit into evidence,
20 and we can do that now, if that's convenient.

21 MR. C. MATTHEW RITTGERS: No objection, Your Honor.

22 Q. So Special Agent Holbrook, will you please turn to
23 Tab 30F.

24 THE COURT: Well, I don't think I've admitted 30A,
25 yet, so...

1 MS. GAFFNEY PAINTER: I apologize.

2 THE COURT: I understand you to be saying no
3 objection to 30A?

4 MR. C. MATTHEW RITTGERS: 30A, that's the segments?

5 THE COURT: That's the portions.

6 MR. C. MATTHEW RITTGERS: Subject to our rule of
7 completeness motions. But outside of that, no objection, Your
8 Honor.

9 THE COURT: USA 30A is admitted, subject to the
10 objection that Mr. Rittgers just raised.

11 MS. GAFFNEY PAINTER: Thank you, Your Honor.

12 Q. Special Agent Holbrook, now will you please turn to
13 tab USA 30F.

14 A. Yes.

15 Q. Do you recognize this?

16 A. Yes.

17 Q. What is it?

18 A. This is a disk containing the video recording of the
19 September 24, 2019 meeting in Columbus.

20 Q. Is this the entire recording?

21 A. Yes.

22 Q. How do you know it is what you just said it was?

23 A. I reviewed this recording and placed my initials on it.

24 MS. GAFFNEY PAINTER: Your Honor, the government
25 moves for the admission of Government Exhibit 30F.

HOLBROOK - CONT'D DIRECT

1 MR. C. HENRY RITTGERS: No objection, Your Honor.

2 THE COURT: USA 30F is admitted without objection.

3 Q. Special Agent Holbrook, will you please turn in your
4 exhibit binder to tab USA 30B.

5 A. Yes.

6 Q. Do you recognize this?

7 A. Yes.

8 Q. What is it?

9 A. This is a transcript, partial transcript, of the recorded
10 meeting on September 24, 2019.

11 Q. And have you reviewed it for accuracy?

12 A. I have.

13 MS. GAFFNEY PAINTER: The government moves for the
14 admission of Government Exhibit USA 30B.

15 MR. C. HENRY RITTGERS: Subject to our objection.

16 THE COURT: I'm sorry. I didn't hear you, sir.

17 MR. C. HENRY RITTGERS: I apologize, Judge. Subject
18 to our objection.

19 THE COURT: Okay. I'm going to admit it over the
20 objection of Mr. Sittenfeld, so USA 30B is admitted.

21 MS. GAFFNEY PAINTER: Your Honor, before I request
22 permission to publish this to the jury, I'd like to put on the
23 record the timestamps.

24 THE COURT: You may do so.

25 Q. And Special Agent Holbrook, to clarify these, you

1 testified yesterday about sessions. Can you, again, explain
2 to us what sessions are?

3 A. Yes. So the recording devices that capture video
4 recordings, they cut the video recordings into sessions. The
5 device does it, it's not us doing it, because it's for the
6 ease of transfer if it's downloaded or transferred to working
7 copies.

8 Q. So where there exists a session break -- for instance, in
9 the transcript we will publish shortly to the jury, there is
10 reference to session four ending and then session five
11 beginning.

12 Does that session break cut out any content in the video?

13 A. No. When the device cuts the recordings into sessions,
14 they're still continuous, it's just they're in different
15 blocks.

16 MS. GAFFNEY PAINTER: Your Honor, may I now put the
17 timestamps from the transcript into the record?

18 THE COURT: You may.

19 MS. GAFFNEY PAINTER: So from session two, we will
20 play from minute 7:08 to minute 7:54.

21 From session two, we will play from 9:17 to 10:06.

22 From session three, we will play from eight seconds to
23 6:50.

24 Also from session three, we will play from 7:16 until the
25 end of session three.

1 We will then play all of session four, all of session
2 five.

3 And then session six, we will play from the beginning of
4 session six until the end of the transcript, which is at 6:34.

5 THE COURT: Very good. And, Ms. Gaffney Painter,
6 that sounds like it's going to be a relatively lengthy period
7 of time, so if you would like to be seated at counsel table
8 while it plays, you may.

9 MS. GAFFNEY PAINTER: Thank you very much, Your
10 Honor. May we publish this to the jury?

11 THE COURT: You may.

12 (Video played.)

13 MS. GAFFNEY PAINTER: Your Honor, may I approach the
14 podium and continue the examination.

15 THE COURT: I wonder if this might be -- well, do you
16 have a few follow-up questions on this?

17 MS. GAFFNEY PAINTER: No. This could be a good spot
18 for a break.

19 THE COURT: It's about 10 'til 11:00. So why don't
20 we take our morning break now, and we'll try to keep it
21 relatively brief and try to have you back in the courtroom by,
22 say, 10 after 11:00 or so.

23 I just would remind you, as I've reminded you on every
24 occasion, please don't discuss the case with your fellow
25 jurors. Please do not do any research on your own, by

1 electronic means or otherwise, regarding the facts or
2 testimony you should hear.

3 If anyone should attempt to communicate with you
4 regarding this case, please let us know. And other than that,
5 have a good break.

6 (Jury out at 10:51 a.m.)

7 THE COURT: Anything counsel wish to discuss before
8 we take a break?

9 MR. SINGER: No, Your Honor.

10 MR. C. HENRY RITTGERS: No, Your Honor.

11 THE COURT: All right. Why don't we take a brief
12 recess as well.

13 (Brief recess.)

14 THE COURT: Are we ready to proceed, Counsel?

15 MR. SINGER: Yes, Your Honor.

16 MR. C. HENRY RITTGERS: Yes, Your Honor.

17 THE COURT: All right. Let's bring in the jury.

18 (Jury in at 11:11 a.m.)

19 THE COURT: Ms. Gaffney Painter, are you ready to
20 proceed?

21 MS. GAFFNEY PAINTER: Yes. Thank you, Your Honor.

22 BY MS. GAFFNEY PAINTER:

23 Q. Special Agent Holbrook, will you please turn in your
24 exhibit binder to the tab marked USA 30E.

25 A. Yes.

1 Q. Do you recognize these?

2 A. I do.

3 Q. What are they?

4 A. They are photocopies of checks and a deposit slip.

5 MS. GAFFNEY PAINTER: Your Honor, pursuant to a
6 stipulation earlier in the trial, we've previously admitted
7 bank records from Fifth Third Bank, that was USA 41A and
8 USA 41B.

9 This exhibit is an excerpt from those records that have
10 already been admitted. The government moves for the admission
11 of Government Exhibit USA 30E.

12 MR. C. HENRY RITTGERS: No objection, Your Honor.

13 THE COURT: USA 30E is admitted without objection.

14 MS. GAFFNEY PAINTER: May we publish to the jury?

15 THE COURT: You may.

16 Q. All right. Let's start with the first page here of
17 USA 30E.

18 What is on this first page?

19 A. This is a photocopy of a check.

20 Q. And before the break, we watched a video exhibit. What
21 is the relevance of this check to the video exhibit that we
22 watched before the break?

23 A. This is one of the checks that was provided to
24 Mr. Sittenfeld from Vinny.

25 Q. All right. What appears here on the top left corner?

1 A. The name of an LLC, Blue Stone Logistics.

2 Q. What is Blue Stone Logistics, LLC?

3 A. Blue Stone Logistics is an LLC that is controlled by the
4 FBI.

5 Q. Who is this check made out to?

6 A. The Progress and Growth.

7 Q. What is the amount of this check?

8 A. \$5,000.

9 Q. All right. Let's proceed to the second page, please.

10 Now, if you could, what are we looking at here on this
11 second page?

12 A. This is the back of the check after it was deposited into
13 a Fifth Third Bank account.

14 Q. All right. If we could proceed to the third page,
15 please.

16 What is this?

17 A. This is a check dated November 24, 2019.

18 Q. And was this one of the checks that was given to
19 Mr. Sittenfeld by Vinny in the previous video exhibit?

20 A. Yes, it was.

21 Q. All right. What appears here at the top left corner?

22 A. The name of an LLC, Midway Development Group.

23 Q. What is Midway Development Group, LLC?

24 A. This is an LLC that is controlled by the FBI.

25 Q. Who is this check made out to?

1 A. Progress and Growth.

2 Q. What is the amount of the check?

3 A. \$5,000.

4 Q. Let's go to the fourth page. What are we seeing here?

5 A. This is the back side of the Midway Development Group
6 check, as it was deposited into the Fifth Third Bank account.

7 Q. All right. And if we could go to the fifth page of the
8 exhibit, please. What are we looking at here?

9 A. This is a deposit slip that records the deposits of the
10 previous two checks. You see on the right side two deposits
11 in the amount of \$5,000, for a total of \$10,000, into a Fifth
12 Third Bank account.

13 Q. Thank you. The day after the meeting that we watched,
14 and that would be September 25, 2019, did Sittenfeld text Rob?

15 A. Excuse me. Can you repeat that question?

16 Q. Certainly. The day after the meeting we watched, so that
17 would be September 25, 2019, did Sittenfeld text Rob?

18 A. Yes, he did.

19 Q. All right. If you could turn in your exhibit binder to
20 the tab marked Exhibit 31B?

21 A. Yes.

22 Q. Do you recognize this?

23 A. Yes, I do.

24 Q. What is it?

25 A. This is a text message exchange between Sittenfeld and

1 Rob.

2 Q. Have you reviewed it for accuracy?

3 A. I have.

4 MS. GAFFNEY PAINTER: The government moves for the
5 admission of Government Exhibit USA 31B.

6 MR. C. HENRY RITTGERS: No objection.

7 THE COURT: Exhibit 31B is admitted without
8 objection.

9 MS. GAFFNEY PAINTER: May we publish this exhibit?

10 THE COURT: You may.

11 Q. If you could, Agent Holbrook, will you read what is
12 displayed here on 31B?

13 A. Yes. On September 25, 2019, Mr. Sittenfeld sent a text
14 message to Rob, at 8:10 a.m., and the text message states:
15 "You got a quick second by phone? Two quick questions."

16 Q. Was there a subsequent phone call that same day between
17 Rob and Sittenfeld?

18 A. Yes, there was.

19 Q. Was that call recorded?

20 A. Yes.

21 Q. Did you review that recording?

22 A. I did.

23 Q. All right. If you will turn, please, to the tab in your
24 binder marked USA 31C.

25 A. Yes.

1 Q. Do you recognize this?

2 A. I do.

3 Q. What is it?

4 A. This is a disk containing a recorded telephone call
5 between Mr. Sittenfeld and Rob.

6 Q. How do you know that?

7 A. I've reviewed this disk, and I placed my initials on it.

8 MS. GAFFNEY PAINTER: The government moves for the
9 admission of Government Exhibit USA 31C.

10 MR. C. HENRY RITTGERS: No objection.

11 THE COURT: USA 31C is admitted without objection.

12 Q. Special Agent Holbrook, please turn to the tab marked
13 USA 31D.

14 A. Yes.

15 Q. Do you recognize this?

16 A. I do.

17 Q. What is it?

18 A. This is a transcript of the September 25, 2019 call
19 between Rob and Mr. Sittenfeld.

20 Q. Have you reviewed it for accuracy?

21 A. I have.

22 MS. GAFFNEY PAINTER: The government moves for the
23 admission of Government Exhibit USA 31D.

24 MR. C. HENRY RITTGERS: No objection, Your Honor.

25 THE COURT: USA 31D is admitted without objection.

1 MS. GAFFNEY PAINTER: Your Honor, permission to
2 publish USA 31C to the jury, and allow them to follow along
3 with the transcript at USA 31D?

4 THE COURT: You may do so. Ladies and gentlemen of
5 the jury, there should be a tab marked 31D, as in dog, in your
6 transcript book.

7 (Audio played.)

8 Q. Special Agent Holbrook, there was reference in
9 USA Exhibit 31C to a Nathan Wright. Who is Nathan Wright?

10 A. Nathan Wright is my alias.

11 Q. For what purpose?

12 A. To operate the LLCs that were previously referenced, Blue
13 Stone Logistics and Midway Development Company, as well as the
14 associate bank accounts.

15 Q. There was reference in USA 31C to Jason Myers?

16 A. Jason Myers was the alias of my partner at that time,
17 Special Agent Kenneth J. Hurst.

18 Q. Was there also phone contact between Rob and Sittenfeld
19 on September 25th and 26th, 2019?

20 A. Yes, there was.

21 Q. All right. If you could turn in your binder to what's
22 been marked for identification as Government Exhibit USA 31F.

23 A. Yes.

24 Q. Do you recognize this?

25 A. I do.

1 Q. What is it?

2 A. This is a recorded call from Mr. Sittenfeld to Rob.

3 Excuse me. Yes, that's correct.

4 Q. How do you know that?

5 A. I've reviewed this, and I have placed my initials on the
6 disk.

7 MS. GAFFNEY PAINTER: The government moves for the
8 admission of Government Exhibit USA 31F.

9 MR. C. HENRY RITTGERS: No objection.

10 THE COURT: USA 31F is admitted without objection.

11 Q. Now, if you could, Special Agent Holbrook, please turn to
12 USA 31G.

13 A. Yes.

14 Q. Do you recognize this?

15 A. I do.

16 Q. What is it?

17 A. It is the transcript of the call from Mr. Sittenfeld to
18 Rob on September 25, 2019.

19 Q. Have you reviewed it for accuracy?

20 A. Yes.

21 MS. GAFFNEY PAINTER: Government moves for the
22 admission of Government Exhibit USA 31G.

23 MR. C. HENRY RITTGERS: No objection.

24 THE COURT: USA Exhibit 31G is admitted without
25 objection.

1 Q. Special Agent Holbrook, if you could turn to the tab
2 marked USA 31H.

3 A. Yes.

4 Q. Do you recognize this?

5 A. I do.

6 Q. What is it?

7 A. This is a recorded telephone call between Mr. Sittenfeld
8 and Rob that occurred on September 26, 2019.

9 Q. How do you know that?

10 A. I've reviewed this disk, and I've placed my initials on
11 it.

12 MS. GAFFNEY PAINTER: Your Honor, the government
13 moves for the admission of Government Exhibit USA 31H.

14 MR. C. HENRY RITTGERS: No objection.

15 THE COURT: USA 31H is admitted without objection.

16 Q. Special Agent Holbrook, if you could turn to the next
17 tab, 31I, and look at what is identified there.

18 A. Yes.

19 Q. Do you recognize this?

20 A. I do.

21 Q. What is it?

22 A. This is a transcript of the recording between
23 Mr. Sittenfeld and Rob on September 26, 2019.

24 Q. Have you reviewed it for accuracy?

25 A. Yes, I have.

1 MS. GAFFNEY PAINTER: Your Honor, the government
2 moves for the admission of Government Exhibit USA 31I.

3 MR. C. HENRY RITTGERS: No objection.

4 THE COURT: USA 31I is admitted without objection.

5 MS. GAFFNEY PAINTER: Your Honor, the government
6 would request the opportunity to publish USA 31F and USA 31H,
7 the recordings, and allow the jury to review the transcripts
8 that have been admitted as USA 31G and USA 31I.

9 THE COURT: Very good. So ladies and gentlemen of
10 the jury, you should have a tab labeled 31G, and then another
11 one labeled 31I, and the government is going to play the
12 accompanying audio for both of those.

13 (Audio played.)

14 Q. Special Agent Holbrook, if you could turn to the tab in
15 your binder marked USA 31J.

16 A. Yes.

17 Q. Do you recognize this?

18 A. I do.

19 Q. What is it?

20 A. This is a series of text message exchanges between
21 Mr. Sittenfeld and Rob.

22 Q. Is it an accurate depiction of the underlying line
23 sheets?

24 A. Yes, it is.

25 MS. GAFFNEY PAINTER: The government moves for the

1 admission of Government Exhibit USA 31J.

2 MR. C. HENRY RITTGERS: No objection, Your Honor.

3 THE COURT: USA 31J is admitted without objection.

4 MS. GAFFNEY PAINTER: Your Honor, may we publish this
5 exhibit?

6 THE COURT: You may.

7 Q. Special Agent Holbrook, will you please read the texts
8 that are displayed here?

9 A. Yes. On September 29, 2019, Sittenfeld texts: "For
10 dates to meet with the guy I mentioned, October 7th doable?
11 Or sometime week of October 14?"

12 September 30 of 2019, Rob texts: "I am trying to
13 reschedule some things the week of the 14th."

14 Sittenfeld likes Rob's text. Sittenfeld texts: "Great.
15 Just let me know."

16 Q. Is there a second page to this exhibit?

17 A. It's not displayed, so I didn't know if I was reading
18 them.

19 Q. All right.

20 MS. GAFFNEY PAINTER: Thank you, Ms. Terry.

21 A. Proceed?

22 Q. Yes, please.

23 A. October 3, 2019, Sittenfeld texts: "Once you know if you
24 can make it in the week of October 14th, I'll get you and Dan
25 together. Preferable on my end if it's not the day of

1 October 15th."

2 October 4th, 2019, Rob texts: "I am trying to move this
3 other meeting. I will let you know as soon as they confirm."

4 Same day, Sittenfeld likes Rob's text.

5 October 9, 2019, Sittenfeld texts: "Let me know if you
6 could come into town and for dinner next Wednesday,
7 October 16th."

8 October 11, 2019, Sittenfeld texts: "16th doable? If
9 not, no worries. Trying to simultaneously pin down your and
10 Dan's schedules to move forward."

11 Rob texts: "Sorry, I was -- I thought I was going to be
12 able to move things around, but I couldn't. I won't be able
13 to get there next week."

14 Sittenfeld texts: "Understood. You still want to try
15 another time, or even by phone with Dan?"

16 Q. Special Agent Holbrook, will you turn to the tab marked
17 USA 31K.

18 A. Yes.

19 Q. Do you recognize this?

20 A. I do.

21 Q. What is it?

22 A. It is an October 24, 2019 telephone call between Rob and
23 Mr. Sittenfeld.

24 Q. How do you know that?

25 A. I've reviewed this disk and placed my initials on it.

HOLBROOK - CONT'D DIRECT

1 MS. GAFFNEY PAINTER: The government moves for
2 admission of Government Exhibit USA 31K.

3 MR. C. HENRY RITTGERS: No objection.

4 THE COURT: USA 31K is admitted without objection.

5 Q. Special Agent Holbrook, if you could turn to the next tab
6 in the binder, 31L.

7 A. Yes.

8 Q. Do you recognize this?

9 A. I do.

10 Q. What is it?

11 A. This is a transcript of the October 24, 2019 call between
12 Rob and Mr. Sittenfeld.

13 Q. Have you reviewed it for accuracy?

14 A. Yes, I have.

15 MS. GAFFNEY PAINTER: The government moves for the
16 admission of Government Exhibit USA 31L.

17 MR. C. HENRY RITTGERS: No objection.

18 THE COURT: USA 31L is admitted without objection.

19 MS. GAFFNEY PAINTER: Your Honor, may we publish to
20 the jury, but before doing so note for the record the
21 timestamps of this exhibit?

22 THE COURT: You may do so.

23 MS. GAFFNEY PAINTER: So the timestamps will be the
24 beginning of the file to 4:45. And then the next timestamp is
25 4:52 until the end.

HOLBROOK - CONT'D DIRECT

1 THE COURT: Very good. Ladies and gentlemen of the
2 jury, you should have a 31L in your transcript book.

3 (Audio played.)

4 Q. Special Agent Holbrook, will you please turn in your
5 binder to the tab marked USA 31M.

6 A. Yes.

7 Q. Do you recognize this?

8 A. I do.

9 Q. What is it?

10 A. It is a series of text message exchanges between
11 Mr. Sittenfeld and Rob.

12 Q. Is it an accurate depiction of the underlying line sheets
13 that were previously admitted?

14 A. Yes, it is.

15 MS. GAFFNEY PAINTER: The government moves for the
16 admission of Government Exhibit USA 31M.

17 MR. C. HENRY RITTGERS: No objection, Your Honor.

18 THE COURT: USA 31M is admitted without objection.

19 MS. GAFFNEY PAINTER: May we publish to the jury,
20 Your Honor?

21 THE COURT: You may.

22 Q. Special Agent Holbrook, will you please read the text
23 message exchange that is displayed?

24 A. Yes. October 25, 2019, Sittenfeld texts: "Any word on
25 coming in next week?"

1 October 27, 2019, Sittenfeld texts: "Gonna make it into
2 town this week?"

3 Rob texts: "Yes. Tuesday."

4 Sittenfeld texts: "Want to plan on a late-ish dinner,
5 7:45?"

6 Rob texts: "Sounds good. I think Brian is going to
7 drive up."

8 Sittenfeld likes Rob's text.

9 Q. Special Agent Holbrook, we've gone through phone calls
10 and text messages from September 25th through
11 October 27, 2019.

12 If you could turn in your binder to what's marked for
13 identification as USA 31A.

14 THE COURT: You mean 32A or 31A?

15 MS. GAFFNEY PAINTER: 31A.

16 THE COURT: Oh, okay.

17 A. Yes.

18 Q. Do you recognize this?

19 A. I do.

20 Q. What is this?

21 A. This is a timeline of communications between
22 Mr. Sittenfeld and Rob.

23 Q. Did you review this for accuracy?

24 A. Yes, I have.

25 Q. Now, does it list all of of the communications that

1 occurred between Sittenfeld and Rob during this time period?

2 A. It does not.

3 Q. What are some examples of communications that are not
4 included in USA 31A?

5 A. Hang-ups, duplicate sessions, disconnects.

6 MS. GAFFNEY PAINTER: The government moves for the
7 admission of Government Exhibit USA 31A.

8 MR. C. HENRY RITTGERS: No objection, Your Honor.

9 THE COURT: USA 31A is admitted without objection.

10 MS. GAFFNEY PAINTER: May we publish for the jury,
11 Your Honor?

12 THE COURT: You may.

13 Q. Special Agent Holbrook, if you could turn in your binder
14 to the tab marked USA 11B.

15 A. Yes.

16 Q. Do you recognize this?

17 A. Yes.

18 Q. What is it?

19 A. This is a chronology of communications between UC Rob,
20 Sittenfeld, Vinny, and Laura Brunner.

21 Q. Between what dates?

22 A. From October 28, 2019, to December 23, 2019.

23 Q. Have you reviewed this for accuracy?

24 A. Yes, I have.

25 MS. GAFFNEY PAINTER: The government moves for the

1 admission of Government Exhibit USA 11B.

2 MR. C. HENRY RITTGERS: No objection, Your Honor.

3 THE COURT: USA 11B is admitted without objection.

4 Q. Now, does the exhibit that appears at USA 11B contain
5 every communication between these dates?

6 A. It does not.

7 Q. What are some examples of communications that are not
8 included in this exhibit?

9 A. Examples of what I've previously testified to;
10 duplicative sessions, hang-ups, dropped calls, things of that
11 nature.

12 Q. Let's go to October 28th and 29th, 2019.

13 If you could turn to what's been identified in your
14 binder as USA 32A.

15 A. Okay.

16 Q. Do you recognize this?

17 A. Yes, I do.

18 Q. What is it?

19 A. This is a series of text message exchanges between
20 Mr. Sittenfeld and Rob.

21 Q. Have you reviewed it for accuracy against the previously
22 admitted line sheets?

23 A. Yes, I have.

24 MS. GAFFNEY PAINTER: The government moves for the
25 admission of Government Exhibit USA 32A.

1 MR. C. HENRY RITTGERS: No objection, Your Honor.

2 THE COURT: USA 32A is admitted without objection.

3 MS. GAFFNEY PAINTER: Your Honor, may we publish just
4 the first page of this exhibit to the jury at this point?

5 THE COURT: You may.

6 Q. Special Agent Holbrook, will you please read for the jury
7 what appears here on the first page of USA 32A?

8 A. Yes. October 28, 2019, Sittenfeld texts: "Is there a
9 good number to reach Vinny on? Have a quick update for him."

10 Rob texts: "401-283-8585."

11 Rob texts again: "I called him. He was going into a
12 meeting but said he would be available between 6:00 and 8:00."

13 Sittenfeld texts: "I'll be free to ring him at 7:30 p.m.
14 Thx."

15 Q. Let's step away from that for a moment. Did Sittenfeld,
16 in fact, call Vinny?

17 A. Yes.

18 Q. Was that call recorded?

19 A. Yes.

20 Q. I'm showing you, when you turn in your binder to
21 Exhibit USA 32B, what's been marked for identification as
22 USA 32B.

23 A. Yes.

24 Q. Do you recognize this?

25 A. I do.

HOLBROOK - CONT'D DIRECT

1 Q. What is it?

2 A. This is an October 28, 2019 recording of a voicemail from
3 Mr. Sittenfeld to Vinny.

4 Q. How do you know that?

5 A. I've reviewed this disk, and I placed my initials on it.

6 MS. GAFFNEY PAINTER: The government moves for the
7 admission of Government Exhibit USA 32B.

8 MR. C. HENRY RITTGERS: No objection, Your Honor.

9 THE COURT: USA 32B is admitted without objection.

10 Q. If you could, Special Agent Holbrook, turn to the next
11 tab in your binder, and that is USA 32C.

12 A. Yes.

13 Q. Do you recognize this?

14 A. I do.

15 Q. What is it?

16 A. This is a transcript of the voice message to Vinny from
17 Mr. Sittenfeld on October 28, 2019.

18 Q. Have you reviewed it for accuracy?

19 A. Yes.

20 MS. GAFFNEY PAINTER: The government moves for the
21 admission of Government Exhibit USA 32C.

22 MR. C. HENRY RITTGERS: No objection.

23 THE COURT: USA 32C is admitted without objection.

24 MS. GAFFNEY PAINTER: Your Honor, may we publish this
25 exhibit to the jury and allow them to review the transcript?

1 THE COURT: You may. Ladies and gentlemen of the
2 jury, the transcript's at 32C.

3 (Audio played.)

4 Q. On October 29, the next day, was there a call between
5 Vinny and Sittenfeld?

6 A. Yes. Mr. Sittenfeld called Vinny.

7 Q. Was that call recorded?

8 A. Yes, it was.

9 Q. All right. If you could turn in your binder to the tab
10 marked USA 32D.

11 A. Yes.

12 Q. Do you recognize this?

13 A. Yes. This is the October 29th -- this is a disk
14 containing the October 29, 2019 call. I've reviewed this
15 disk, and I've placed my initials on it.

16 MS. GAFFNEY PAINTER: Your Honor, the government
17 moves for the admission of Government Exhibit USA 32D.

18 MR. C. HENRY RITTGERS: No objection, Your Honor.

19 THE COURT: USA 32D is admitted without objection.

20 Q. Now, Special Agent Holbrook, could you please turn to the
21 tab marked USA 32E.

22 A. Yes.

23 Q. Do you recognize this?

24 A. I do.

25 Q. What is it?

HOLBROOK - CONT'D DIRECT

1 A. This is a transcript of an October 29, 2019 call between
2 Vinny and Mr. Sittenfeld.

3 Q. Have you reviewed it for accuracy?

4 A. Yes, I have.

5 MS. GAFFNEY PAINTER: Your Honor, the government
6 moves for the admission of Government Exhibit USA 32E.

7 MR. C. HENRY RITTGERS: No objection.

8 THE COURT: USA 32E is admitted without objection.

9 MS. GAFFNEY PAINTER: Your Honor, may we publish
10 these exhibits to the jury?

11 THE COURT: You may. Ladies and gentlemen of the
12 jury, there should be a transcript tab marked 32E.

13 (Audio played.)

14 Q. Special Agent Holbrook, on that call, there was a
15 reference to meeting up with Rob and Brian. Did that meeting
16 happen?

17 A. Yes, it did.

18 MS. GAFFNEY PAINTER: All right. If we could pull
19 back up USA 32A, which has been previously admitted into
20 evidence but, instead, this time publish page 2, if the Court
21 allows it?

22 THE COURT: You may.

23 Q. Special Agent Holbrook, will you please read the text
24 exchange that's displayed here?

25 A. Yes. October 29, 2019: "What location for tonight?" was

1 the text by Mr. Sittenfeld.

2 Rob texts: "Just come to the apartment whenever, and we
3 will do Sotto's or Ruby's."

4 Sittenfeld texts: "Great. Will be there between 7:30
5 and 7:45."

6 Rob texts: "Vinny said he missed your call, but he is
7 available after 2:00 today."

8 Sittenfeld texts: "Just got to lobby."

9 Rob texts: "On the way."

10 Sittenfeld texts: "Take your time."

11 Q. Where was this meeting held between Sittenfeld, Rob, and
12 Brian?

13 A. This meeting began at the apartment at the 580 Building.

14 Q. Was that meeting recorded?

15 A. Yes.

16 Q. If you could turn to the tabs in your binder marked
17 USA 33A and USA 33C.

18 A. Yes.

19 Q. Do you recognize these?

20 A. I do.

21 Q. What are they?

22 A. 33A is a disk that contains a video recording inside the
23 apartment of the 580 Building on October 29, 2019.

24 Q. And what is 33C?

25 A. 33C is also a recording of a continuation of the

1 October 29, 2019 meeting after they left the apartment at the
2 580 Building.

3 Q. How do you know that?

4 A. I have reviewed both of these exhibits, the disk, and I
5 have placed my initials on them.

6 MS. GAFFNEY PAINTER: Your Honor, the government
7 moves for the admission of Government Exhibits USA 33A and
8 USA 33C.

9 THE COURT: Any objection, Mr. Rittgers?

10 MR. C. HENRY RITTGERS: No. I'm sorry, Your Honor.
11 No objection.

12 THE COURT: USA 33A is admitted without objection,
13 and USA 33C is admitted without objection.

14 Q. If you could, Special Agent Holbrook, turn to tab
15 USA 33B. And then when you are finished reviewing that,
16 please turn to USA 33D.

17 A. Yes.

18 Q. Do you recognize these?

19 A. I do.

20 Q. What are they?

21 A. 33B is a transcript of the video recording that occurred
22 inside the apartment at the 580 Building. And Exhibit 33D is
23 a transcript of an audio recording after they left the
24 apartment and went to a local restaurant.

25 Q. Have you reviewed both of these for accuracy?

1 A. Yes, I have.

2 MS. GAFFNEY PAINTER: Your Honor, the government
3 moves for the admission of Government Exhibit USA 33B and
4 USA 33D.

5 MR. C. HENRY RITTGERS: No objection, Your Honor.

6 THE COURT: USA 33B is admitted, and USA 33D is
7 admitted, both without objection.

8 MS. GAFFNEY PAINTER: Your Honor, in recognition of
9 the time, I believe that, perhaps, publishing these exhibits
10 after lunch may be the most efficient way to proceed.

11 THE COURT: You want to play them all together?

12 MS. GAFFNEY PAINTER: Yes.

13 THE COURT: Which makes sense.

14 MS. GAFFNEY PAINTER: Yes.

15 THE COURT: Okay. So ladies and gentlemen of the
16 jury, I actually have a hearing in another matter that's
17 coming up shortly, so we're going to need to take a break for
18 lunch now.

19 And I think it's unlikely that we'd be able to resume
20 before 1:30, so if you can reassemble in the jury room shortly
21 after 1:15, around 1:20, and we'll try to get you back down
22 here by 1:30.

23 I would just remind you, I know you're breaking for
24 lunch, and I know you're probably sick of hearing this
25 admonition, but please do not discuss this case with each

1 other.

2 Please don't do any research on the internet or any other
3 way with regard to the facts or claims at issue here. Please
4 do not communicate with anyone outside the jury about the case
5 either, and if anyone attempts to communicate with you about
6 the case, please let me know.

7 With that, have a good lunch.

8 (Jury out at 12:11 p.m.)

9 THE COURT: Thank you for being mindful of the time,
10 Ms. Gaffney Painter. I appreciate that.

11 Is there anything we need to discuss before we break for
12 lunch?

13 MR. SINGER: No, Your Honor.

14 MR. C. HENRY RITTGERS: No, Your Honor.

15 THE COURT: Very good. We'll take a brief recess for
16 lunch. As you heard, I have a plea hearing that starts at
17 12:30, so I imagine it's going to be, at the earliest, 1:15 or
18 1:20 before I can be back here, so just try to be here a
19 little before 1:30.

20 MS. GAFFNEY PAINTER: Your Honor, for the convenience
21 of the parties for the plea, should we remove the --

22 THE COURT: We're not doing the plea here.

23 MS. GAFFNEY PAINTER: Oh, great. Thank you.

24 (Lunch recess.)

25 THE COURT: Is counsel ready to proceed?

1 MR. SINGER: Yes, Your Honor.

2 MR. C. HENRY RITTGERS: Yes, Your Honor.

3 THE COURT: All right. Let's bring in the jury.

4 My proceeding ran a little long. I apologize.

5 (Jury in at 1:38 p.m.)

6 THE COURT: Ms. Gaffney Painter, are you ready to
7 proceed?

8 MS. GAFFNEY PAINTER: Yes. Thank you, Your Honor.

9 Your Honor, before the lunch break, the government had
10 moved into evidence Government Exhibits USA 33A and USA 33C,
11 and had also admitted the corresponding transcripts,
12 Government Exhibit USA 33B and Government Exhibit USA 33D.

13 The government seeks permission to publish these exhibits
14 and would like to note on the record the timestamps that we
15 will be publishing.

16 THE COURT: You may do so.

17 MS. GAFFNEY PAINTER: For Government Exhibit USA 33A,
18 the timestamps are for file 1D158-1, starting at 8:12 to 9:33.

19 In that same first session, we are then playing 36:53 to
20 the end of session one.

21 We will then play the beginning of session two to 2:20.

22 For Government Exhibit USA 33D, the government will be
23 publishing 1D161-1, that's session one, at 54:24 to 55:43.

24 The government will then publish 1:03:10 to 1:07:55.

25 And the government will finally publish 1:11:40 to

1 1:12:55.

2 And, Your Honor, before we publish, may I have
3 permission, since this is a longer clip, to sit during the
4 publication?

5 THE COURT: You may.

6 MS. GAFFNEY PAINTER: Thank you.

7 THE COURT: Ladies and gentlemen of the jury, they're
8 now going to play, it should be 33B and 33D would be the
9 accompanying transcripts, and they are side by each in your
10 volume of transcripts there.

11 (Video played.)

12 MS. GAFFNEY PAINTER: Your Honor, may I approach the
13 podium and continue the examination?

14 THE COURT: You may.

15 BY MS. GAFFNEY PAINTER:

16 Q. Special Agent Holbrook, there was a reference to checks
17 during that meeting back in the 580 Building. Will you please
18 turn in your exhibit binder to the tab marked USA 33E.

19 Do you recognize this?

20 A. I do.

21 Q. What is?

22 A. It is one of the checks that was given to Mr. Sittenfeld
23 on October 29, 2019.

24 Q. And what about the other pages of the exhibit?

25 A. There's the back of the first check, and then there's a

1 second check that was also provided to Mr. Sittenfeld on
2 October of 2019. And then there's a deposit ticket for the
3 checks.

4 MS. GAFFNEY PAINTER: Your Honor, previously,
5 pursuant to a stip, the parties agreed to admission of the
6 Fifth Third records, which were then admitted at USA 41A and
7 USA 41B.

8 The exhibit here, USA 33E, is a subsection of those
9 records that have previously been admitted.

10 The government moves for the admission of USA 33E.

11 THE COURT: Has the witness described the total of
12 it, or did you only want the first few pages? I'm not clear
13 what's going on right now.

14 MS. GAFFNEY PAINTER: I just wanted him to
15 acknowledge what the exhibit is and that he has reviewed it.

16 And then these records have come from a subset of records
17 that have already been admitted.

18 THE COURT: I see.

19 MS. GAFFNEY PAINTER: And so now I'm moving for the
20 admission of this subset of records, which is USA 33E.

21 THE COURT: Okay. So so far, he's identified two
22 checks and a deposit statement. I'm just -- there appear to
23 be more parts to this.

24 MS. GAFFNEY PAINTER: Yes. I can have him walk
25 through the remainder of the pages, if that would be helpful?

HOLBROOK - CONT'D DIRECT

1 THE COURT: That's all right. If there's no
2 objection -- any objection to the admission?

3 MR. C. MATTHEW RITTGERS: No, Your Honor.

4 THE COURT: All right. USA 33E is admitted without
5 objection.

6 MS. GAFFNEY PAINTER: May we publish this exhibit for
7 the jury?

8 THE COURT: You may.

9 Q. All right. Special Agent Holbrook, looking at this
10 exhibit here of USA 33E, what appears in the top left-hand
11 corner here?

12 A. It's the name of an LLC, IN2IT Global Corporation, with
13 an address.

14 Q. What is IN2IT Global Corporation, LLC?

15 A. This is a limited liability corporation that is
16 controlled by a confidential unit source.

17 Q. And who is it made out to?

18 A. The Progress and Growth.

19 Q. And what is the amount of this check?

20 A. It's \$5,000.

21 Q. All right. Could we please go to the third page of this
22 exhibit.

23 What appears at the top left-hand corner of this page?

24 A. An LLC named Four Kross USA, LLC.

25 Q. And what is Four Kross USA, LLC?

1 A. This is an LLC that is controlled by a confidential unit
2 source.

3 Q. What is the amount of this check?

4 A. The amount is 5,000.

5 Q. And who is the check made out to?

6 A. Progress and Growth.

7 MS. GAFFNEY PAINTER: Now, Ms. Terry, will you please
8 publish the subsequent pages of this exhibit.

9 Q. Special Agent Holbrook, the pages that follow, those
10 records that appear there, what do these records show?

11 A. Could you be more specific?

12 Q. Certainly. The records that follow the two copies of the
13 checks, what action does it indicate has happened to the
14 checks that we've previously looked at?

15 A. The checks were deposited into the account of Progress
16 and Growth.

17 Q. Special Agent Holbrook, will you turn to what's been
18 marked for identification as USA 34A.

19 A. Yes.

20 Q. Do you recognize this?

21 A. Yes.

22 Q. What is this?

23 A. This is a recording on November 14th of 2019 of a
24 voicemail left by Mr. Sittenfeld.

25 Q. How do you know that?

1 A. I have reviewed this disk, and I've placed my initials on
2 it.

3 MS. GAFFNEY PAINTER: The government moves for the
4 admission of Government Exhibit USA 34A.

5 THE COURT: Mr. Rittgers?

6 MR. C. HENRY RITTGERS: I'm sorry. No objection.

7 THE COURT: USA 34A is admitted without objection.

8 Q. Now, Special Agent Holbrook, if you'll turn to tab
9 USA 34B. Do you recognize this?

10 A. Yes.

11 Q. What is it?

12 A. This is a transcript related to the November 14, 2019
13 voice message.

14 Q. Have you reviewed it for accuracy?

15 A. I have.

16 MS. GAFFNEY PAINTER: The government moves for the
17 admission of Government Exhibit USA 34B.

18 MR. C. HENRY RITTGERS: No objection, Your Honor.

19 THE COURT: USA 34B is admitted without objection

20 Q. Special Agent Holbrook, if you could, turn to the tab in
21 your binder to USA 34C.

22 A. Yes.

23 Q. Do you recognize this?

24 A. This is a November 14, 2019 call between Mr. Sittenfeld
25 and Rob.

1 Q. How do you know that?

2 A. I had reviewed the disk, and I placed my initials on it.

3 MS. GAFFNEY PAINTER: The government moves for
4 admission of Government Exhibit USA 34C.

5 MR. C. HENRY RITTGERS: No objection, Your Honor.

6 THE COURT: USA 34C is admitted without objection.

7 Q. Special Agent Holbrook, will you please turn to the tab
8 marked USA 34D.

9 A. Yes.

10 Q. Do you recognize this?

11 A. I do.

12 Q. What is it?

13 A. This is a transcript of the November 14, 2019 call
14 between Mr. Sittenfeld and Rob.

15 Q. Have you reviewed it for accuracy?

16 A. I have.

17 MS. GAFFNEY PAINTER: The government moves for the
18 admission of Government Exhibit USA 34D.

19 MR. C. HENRY RITTGERS: No objection, Your Honor.

20 THE COURT: USA 34D is admitted without objection.

21 MS. GAFFNEY PAINTER: Your Honor, the government
22 seeks permission to publish Government Exhibit USA 34A first,
23 and then Government Exhibit USA 34C next.

24 THE COURT: Very good. Ladies and gentlemen of the
25 jury, you're now going to hear two audio clips. The

1 transcription for the first one appears at 34B in your binder.

2 And the transcription for the second one appears at the
3 tab labeled 34D in your binder, which would be right after
4 34B.

5 (Audio played.)

6 Q. Special Agent Holbrook, the next day, November 15, 2019,
7 was there phone contact between Sittenfeld and Vinny?

8 A. Did you say November 15, 2019?

9 Q. November 15, 2019.

10 A. Yes.

11 Q. If you could, please, turn to the tab of your binder
12 that's marked USA 35A.

13 A. Yes.

14 Q. Do you recognize this?

15 A. I do.

16 Q. What is it?

17 A. It is a November 15, 2019 voicemail left by
18 Mr. Sittenfeld for Vinny.

19 Q. How do you know that?

20 A. I reviewed this disk, and I placed my initials on it.

21 MS. GAFFNEY PAINTER: Your Honor, the government
22 moves for the admission of Government Exhibit USA 35A.

23 MR. C. HENRY RITTGERS: No objection.

24 THE COURT: USA 35A is admitted without objection.

25 Q. Special Agent Holbrook, if you can turn to the next tab,

1 USA 35B.

2 A. Yes.

3 Q. Do you recognize what appears there?

4 A. I do.

5 Q. What is it?

6 A. This is a transcript of the November 15, 2019 voice
7 message left for Vinny by Mr. Sittenfeld.

8 Q. Have you reviewed this for accuracy?

9 A. I have.

10 MS. GAFFNEY PAINTER: The government moves for the
11 admission of Government Exhibit USA 35B.

12 MR. C. HENRY RITTGERS: No objection.

13 THE COURT: USA 35B is admitted without objection.

14 Q. Special Agent Holbrook, if you could turn to the tab
15 marked USA 35C.

16 A. Yes.

17 Q. Do you recognize this?

18 A. Yes. This is a November 15, 2019 call between
19 Mr. Sittenfeld and Vinny.

20 Q. How do you know that?

21 A. I have reviewed this disk, and I have placed my initials
22 on it.

23 MS. GAFFNEY PAINTER: The government moves for the
24 admission of Government Exhibit USA 35C.

25 MR. C. HENRY RITTGERS: No objection.

HOLBROOK - CONT'D DIRECT

1 THE COURT: USA 35C is admitted without objection.

2 Q. Special Agent Holbrook, if you could turn to the next
3 tab, USA 35D?

4 A. Yes.

5 Q. What appears there?

6 A. This is the transcript of the November 15, 2019 call
7 between Mr. Sittenfeld and Vinny.

8 Q. How do you know that?

9 A. I have reviewed this transcript.

10 MS. GAFFNEY PAINTER: The government moves for the
11 admission of Government Exhibit USA 35D.

12 MR. C. HENRY RITTGERS: No objection.

13 THE COURT: USA 35D is admitted without objection.

14 MS. GAFFNEY PAINTER: Your Honor, the government
15 seeks permission from the Court to publish both of the
16 recordings that were just admitted, that is USA 35A and
17 USA 35C.

18 THE COURT: You may do so. Ladies and gentlemen of
19 the jury, you should have a tab in your transcript book that
20 is labeled USA 35B, followed by USA 35D, which should be the
21 transcripts that correspond to the audio you're about to hear.

22 Of course, to the extent there's any discrepancy, it's
23 the audio that governs. You may play it.

24 (Audio played.)

25 Q. Special Agent Holbrook, directing your attention to

HOLBROOK - CONT'D DIRECT

1 November 27, 2019, was there phone contact between Sittenfeld
2 and Vinny on that day?

3 A. Yes, there was.

4 Q. If you could turn in your binder to the tab marked
5 USA 36A.

6 A. Yes.

7 Q. Do you recognize this?

8 A. Yes.

9 Q. What is it?

10 A. This is a disk containing the November 27, 2019 call
11 between Vinny and Mr. Sittenfeld.

12 Q. How do you know that?

13 A. I've reviewed this disk, and I've placed my initials on
14 it.

15 MS. GAFFNEY PAINTER: The government moves for the
16 admission of Government Exhibit USA 36A.

17 MR. C. HENRY RITTGERS: No objection, Your Honor.

18 THE COURT: USA 36A is admitted without objection.

19 Q. Special Agent Holbrook, if you would, please, turn to the
20 tab marked USA 36B.

21 A. Yes.

22 Q. Do you recognize this?

23 A. Yes.

24 Q. What is it?

25 A. This is a transcript of the November 27, 2019 call

1 between Mr. Sittenfeld and Vinny.

2 Q. Have you reviewed it for accuracy?

3 A. I have.

4 MS. GAFFNEY PAINTER: The government moves for the
5 admission of Government Exhibit USA 36B.

6 MR. C. HENRY RITTGERS: No objection.

7 THE COURT: USA 36B is admitted without objection.

8 MS. GAFFNEY PAINTER: Your Honor, may we publish this
9 exhibit to the jury?

10 THE COURT: You may. Ladies and gentlemen of the
11 jury, there should be a tab marked 36B in your transcript
12 book.

13 (Audio played.)

14 Q. Special Agent Holbrook, directing your attention to
15 December 9, 2019, was there phone contact between Sittenfeld
16 and Vinny that day?

17 A. Yes, there was. Vinny called Mr. Sittenfeld that day.

18 Q. If you could turn in your binder to the tab marked
19 USA 37A.

20 A. Yes.

21 Q. Do you recognize this?

22 A. I do.

23 Q. What is it?

24 A. It is the December 9, 2019 call from Vinny to Sittenfeld.

25 Q. How do you know that?

1 A. I have reviewed this disk, and I've placed my initials on
2 it.

3 MS. GAFFNEY PAINTER: The government moves for the
4 admission of Government Exhibit USA 37A.

5 MR. C. HENRY RITTGERS: No objection.

6 THE COURT: USA Exhibit 37A is admitted without
7 objection.

8 Q. Now, Special Agent Holbrook, if you could turn to the tab
9 marked USA Exhibit 37B.

10 A. Yes.

11 Q. Do you recognize this?

12 A. Yes.

13 Q. What is it?

14 A. This is a transcript to the November 9, 2019 call between
15 Sittenfeld and Vinny.

16 Q. Did you review it for accuracy?

17 A. I did.

18 MS. GAFFNEY PAINTER: The government moves for the
19 admission of Government Exhibit USA 37B.

20 MR. C. HENRY RITTGERS: No objection.

21 THE COURT: USA 37B is admitted without objection.

22 MS. GAFFNEY PAINTER: Your Honor, permission to
23 publish to the jury?

24 THE COURT: You may. Ladies and gentlemen of the
25 jury, there should be a tab in your transcript volume that

HOLBROOK - CONT'D DIRECT

1 says USA Exhibit 37B, to which you can turn now.

2 (Audio played.)

3 Q. Special Agent Holbrook, was there phone contact between
4 Sittenfeld and Vinny on December 11, 2019?

5 A. Yes, there was. Mr. Sittenfeld called Vinny on that
6 date.

7 Q. Could you please turn to the tab in your binder marked
8 USA 38A.

9 A. Yes.

10 Q. Do you recognize this?

11 A. Yes.

12 Q. What is it?

13 A. This is a disk containing the December 11, 2019 call
14 between Sittenfeld and Vinny.

15 Q. How do you know that?

16 A. I reviewed the disk, and I placed my initials on it.

17 MS. GAFFNEY PAINTER: The government moves for the
18 admission of Government Exhibit USA 38A.

19 MR. C. MATTHEW RITTGERS: No objection, Your Honor.

20 THE COURT: USA 38A is admitted without objection.

21 Q. The next tab, Special Agent Holbrook, is USA 38B. Do you
22 recognize what appears behind that tab?

23 A. Yes.

24 Q. What is it?

25 A. This is a transcript of the December 11, 2019 telephone

1 call between Mr. Sittenfeld and Vinny.

2 Q. Did you review it for accuracy?

3 A. I have.

4 MS. GAFFNEY PAINTER: The government moves for the
5 admission of Government Exhibit USA 38B.

6 MR. C. HENRY RITTGERS: No objection, Your Honor.

7 THE COURT: USA 38B is admitted without objection.

8 MS. GAFFNEY PAINTER: Your Honor, may we publish this
9 exhibit to the jury?

10 THE COURT: You may. Ladies and gentlemen of the
11 jury, there should be a tab in your book that's labeled 38B,
12 as in boy.

13 (Audio played.)

14 Q. Special Agent Holbrook, was there phone contact between
15 Vinny and Sittenfeld on December 23, 2019?

16 A. Yes, there was.

17 Q. Was it recorded?

18 A. Yes.

19 Q. If you could turn in your binder to the tab marked
20 USA 39A.

21 A. Yes.

22 Q. Do you recognize this?

23 A. I do.

24 Q. What is it?

25 A. This is a disk containing the December 23, 2019 call

1 between Mr. Sittenfeld and Vinny.

2 Q. How do you know that?

3 A. I reviewed this disk, and I placed my initials on it.

4 MS. GAFFNEY PAINTER: The government moves for the
5 admission of Government Exhibit USA 39A.

6 MR. C. HENRY RITTGERS: No objection, Your Honor.

7 THE COURT: USA 39A is admitted without objection.

8 Q. If you could, Special Agent Holbrook, turn to the next
9 tab in your binder, which is USA 39B.

10 A. Yes.

11 Q. Do you recognize this?

12 A. I do.

13 Q. What is it?

14 A. This is a December 23, 2019 transcript of a telephone
15 call between Mr. Sittenfeld and Vinny.

16 Q. Have you reviewed it for accuracy?

17 A. I have.

18 MS. GAFFNEY PAINTER: The government moves for the
19 admission of Government Exhibit USA 39B.

20 MR. C. HENRY RITTGERS: No objection, Your Honor.

21 THE COURT: USA 39B is admitted without objection.

22 MS. GAFFNEY PAINTER: Your Honor, may we publish this
23 exhibit for the jury?

24 THE COURT: You may. Ladies and gentlemen of the
25 jury, I believe the last tab in your book is USA 39B.

1 (Audio played.)

2 MS. GAFFNEY PAINTER: Your Honor, the government
3 previously admitted Government Exhibit USA 11B. I would
4 request permission to publish this exhibit to the jury.

5 THE COURT: You may do so.

6 Q. Special Agent Holbrook, directing your attention to the
7 column that appears here on USA 11B marked "time."

8 What appears here in this column?

9 A. This would be the time of the event in eastern standard
10 time.

11 Q. Was there any conversion required to get it to eastern
12 standard time?

13 A. Yes. It was converted from UTC to eastern standard time.

14 Q. Did you review these conversions for accuracy?

15 A. Yes.

16 MS. GAFFNEY PAINTER: Your Honor, may I have just a
17 moment?

18 THE COURT: You may.

19 MS. GAFFNEY PAINTER: No further questions, Your
20 Honor.

21 THE COURT: Okay. Mr. Rittgers, are you prepared to
22 start your examination?

23 MR. C. HENRY RITTGERS: I believe I am, Your Honor.

24 THE COURT: Very good.

25

HOLBROOK - CROSS

1

2

CROSS-EXAMINATION

3

BY MR. C. HENRY RITTGERS:

4

Q. Agent Holbrook, we've already heard from you yesterday

5

that, being the case agent, you were the one that supervised

6

all the undercovers and Mr. Ndukwe?

7

A. I'm sorry?

8

Q. I said we heard yesterday that you, being the case agent,

9

you were in charge of supervising everybody, your undercover

10

agents and Mr. Ndukwe?

11

A. That's correct.

12

Q. And as case agent, you collected bank records, credit

13

reports, everything through your subpoena power; is that

14

correct?

15

A. Yes.

16

Q. And you also interviewed a number of witnesses, correct?

17

A. Yes.

18

Q. And for each event, when you interview a witness or

19

subpoenaed a phone record, or what have you, you write what's

20

called a 302, what you all refer to as a 302?

21

A. Yes. If I interview a witness, I will complete a 302.

22

If it's serving a subpoena, it's not initially a 302, it could

23

be an imported document, or something like that.

24

Q. Okay. When you receive the documents, do you issue a

25

302?

1 A. Yes.

2 Q. And when you do a 302 after interviewing a witness, you
3 do that almost immediately after you interview the witness,
4 correct?

5 A. I try to do that within a couple of days after the
6 interviews. It's -- some agents, you know, have a different
7 approach to that, but I try to do it within a couple days.

8 Q. And when you write these 302s, they're your summaries of
9 what you recall what that witness said to you?

10 A. That is correct.

11 Q. So in addition to your summaries, did you record any
12 statements? I'm not talking about during the operation, I'm
13 talking about with any witness.

14 A. There's -- I'm thinking of the investigation in its
15 entirety. Umm...

16 Q. Let me help you out.

17 A. Yes. I appreciate that. Thank you.

18 Q. No problem. Did you record Mr. Ndukwe when he confessed
19 to multiple federal crimes? Did you record that statement?

20 A. No, I did not.

21 Q. Did you record Jared Kamrass when he confessed to
22 pocketing the \$15,000 cash that your agents gave to him that
23 was supposed to be delivered to a different campaign, that
24 being of Mayor Cranley?

25 A. That was not recorded.

HOLBROOK - CROSS

1 Q. Did you record any of the other witnesses that have been
2 listed here or that the judge told the prospective jurors
3 about, like Mr. Berding, Ms. Brunner, any of those witnesses?
4 Did you record any of those statements?

5 A. No.

6 Q. Did you have Mr. Ndukwe, when he confessed to these
7 federal crimes, did you have him write out a witness
8 statement?

9 A. I don't remember Ndukwe confessing to federal crimes.

10 Q. We'll get into that in a minute. So the answer is you
11 did not have Mr. Ndukwe write out any type of statement --

12 A. No.

13 Q. -- is that correct?

14 A. That is correct.

15 Q. And the same with Kamrass, Jared Kamrass, you didn't have
16 him write out a statement?

17 A. No.

18 Q. Or anybody else you interviewed, like Mrs. Brunner of the
19 port?

20 A. No.

21 Q. Would you agree with me, Agent Holbrook, that recording a
22 witness's statement or a criminal confession is more accurate
23 than your summary. Would you agree with that?

24 A. I would agree with that statement, yes.

25 Q. Thank you. Same with if you have a witness, or someone

1 confessing to a crime and they write out a statement, wouldn't
2 that be more accurate than your summary?

3 A. That would be correct.

4 Q. Thank you. So just so that we're all clear, the only
5 record of what a potential witness said to you is memorialized
6 in your summary, correct?

7 A. Correct.

8 Q. Thank you. When you testified yesterday, and correct me
9 if I'm wrong, please, you indicated that you came to
10 Cincinnati the beginning of 2018?

11 A. Yes. That's correct.

12 Q. And if I recall correctly, you said that there was an
13 investigation already underway by the undercover agents,
14 correct?

15 A. That's correct.

16 Q. And that started back in 2017?

17 A. Yes. That's correct.

18 Q. And then when you came on duty, so to speak, when you
19 transferred to Cincinnati, your agents, not necessarily the
20 undercover agents that we've been talking about the last two
21 days, but FBI agents discovered that Mr. Ndukwe had committed
22 some crimes; is that correct?

23 A. There were allegations of potential crimes. And I want
24 to make note that the undercover agents that were in
25 Cincinnati in 2017 was unrelated to anything that Mr. Ndukwe

1 was doing or we were doing with Mr. Ndukwe at that time.

2 Q. Yeah. Gotcha. But what I asked you is that when you
3 came to Cincinnati, during that first couple of months, the
4 FBI discovered that Mr. Ndukwe had committed some crimes. Yes
5 or no?

6 A. No. There was an articulable factual basis for a case
7 that was open on Ndukwe. The investigation was for the
8 purpose of collecting evidence to determine if a potential
9 crime was committed. So to say that a crime was committed at
10 the time the case was open, I am unable to say that.

11 Q. Would you please refer to Defendant's Trial Exhibit
12 D652, please.

13 THE COURT: All those over there.

14 MR. C. MATTHEW RITTGERS: It's open to it.

15 THE COURT: Oh, okay.

16 MS. GAFFNEY PAINTER: Your Honor, may we request a
17 copy of this document?

18 MR. C. MATTHEW RITTGERS: It's in the exhibit
19 binders.

20 MS. GAFFNEY PAINTER: Which is?

21 MR. C. HENRY RITTGERS: I'll give you a copy.

22 BY MR. C. HENRY RITTGERS:

23 Q. Agent Holbrook, do you recognize that document?

24 A. Yes. I know what this document is.

25 Q. What is that? Tell us.

1 A. This document is a document dated March 12, 2018. It
2 appears to be a proffer agreement between the United States
3 Attorney's Office and Mr. Ndukwe and his attorney.

4 Q. Do you agree that it's a fair and accurate example of the
5 proffer agreement?

6 A. Probably is. I don't draft proffer agreements.

7 Q. I didn't ask you if you drafted it. I asked you if you
8 recognized it?

9 A. I recognize it.

10 Q. And do you agree that it's fair and accurate?

11 A. In this situation, I would agree with that, yes.

12 Q. Thank you.

13 MR. C. HENRY RITTGERS: Judge, I would ask that
14 Defendant's Trial Exhibit D652 be admitted into evidence.

15 MS. GAFFNEY PAINTER: Your Honor, the government
16 objects on hearsay grounds.

17 THE COURT: Let's do a sidebar.

18 SIDEBAR CONFERENCE

19 THE COURT: Can you explain more the basis of your
20 objection?

21 MS. GAFFNEY PAINTER: Your Honor, this is a document
22 that was drafted by an Assistant United States Attorney, not
23 the witness who is testifying. It is offered for the truth of
24 the matter asserted, which is the terms of the agreement
25 between Mr. Ndukwe and the government, and there's no

1 recognizable hearsay exception that makes it appropriate to
2 introduce this exhibit through this witness.

3 MR. C. HENRY RITTGERS: I asked him if he was aware
4 of it, and it's impeachment material.

5 THE COURT: Well, but as impeachment material, that's
6 different from admitting it as an exhibit. If you want to
7 admit it as an exhibit, I think you need to lay a foundation.
8 I don't even think he can authenticate it.

9 He said it's similar to proffer agreements he's seen
10 before, but I don't know that he knows the terms of this
11 proffer agreement, so there's the foundation problem.

12 But then even if you get beyond that, I think you do have
13 a hearsay problem, at least with regard to this witness saying
14 much about this document.

15 If you want to use it for impeachment purposes, I think
16 you can do that, but I don't think it's admissible at this
17 point as evidence.

18 MR. C. HENRY RITTGERS: So I cannot publish it then?

19 THE COURT: Right.

20 MR. C. HENRY RITTGERS: All right.

21 MR. C. MATTHEW RITTGERS: He's reviewed it, so you
22 can cross-examine him.

23 MS. GAFFNEY PAINTER: I'm sorry, Your Honor. I
24 didn't hear what your question was.

25 THE COURT: I didn't ask a question.

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1 MS. GAFFNEY PAINTER: I see.

2 THE COURT: Okay. I just wondered, he's going to use
3 it for impeachment purposes, and I wondered what your view on
4 that is going to be.

5 MS. GAFFNEY PAINTER: My view is that that violates
6 608. This would be extrinsic evidence of impeachment, and I
7 don't understand how this document that he didn't draft or
8 adopt impeaches this witness.

9 THE COURT: So now that's my next concern is how is
10 it impeachment? What is it you're trying to impeach this
11 witness about?

12 MR. C. HENRY RITTGERS: I want to bring out the fact
13 that this witness used Mr. Ndukwe, who committed acts that are
14 of dishonesty, and spelled out in the government's initial
15 proffer --

16 MR. C. MATTHEW RITTGERS: May I, for one second?

17 MR. C. HENRY RITTGERS: Yes.

18 MR. C. MATTHEW RITTGERS: Special Agent Holbrook has
19 admitted that, as part of this investigation, he's reviewed
20 this document.

21 And you might have to lay a little bit more foundation
22 and indicate -- before he makes him a cooperating witness, he
23 has to look at their background to determine if they're a good
24 person to become a cooperating witness, and part of that would
25 be reviewing documents like this.

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1 And this document says certain things in it that would be
2 important for him, Agent Holbrook, to know before he
3 determined whether or not Mr. Ndukwe should become a
4 cooperating agent.

5 THE COURT: Okay. So if the inquiry is going to go
6 to what steps did he take to determine whether Mr. Ndukwe
7 would be an appropriate cooperating witness to use in
8 connection with an investigation, and what background
9 investigation did he do, and things like that.

10 And if he testifies, in some manner, inconsistent with
11 the information that you have from some other source, then I
12 think you could use that other source to impeach the answers
13 that he gives to those questions. But you haven't asked those
14 questions yet, and I don't know what he does to try and vet --

15 MR. C. HENRY RITTGERS: I gotcha.

16 MS. GAFFNEY PAINTER: But, Your Honor, it goes to the
17 admissibility of the document.

18 MR. C. MATTHEW RITTGERS: We're not asking for
19 admissibility.

20 MS. GAFFNEY PAINTER: You're not?

21 THE COURT: I'm not admitting it, no.

22 MS. GAFFNEY PAINTER: Okay.

23 THE COURT: While we're at sidebar, there's one other
24 thing I wanted to address.

25 We've been advised that, in light of the *Dobbs* decision,

1 which came out this morning, there may be protests planned at
2 courthouses around the country, including potentially at this
3 courthouse.

4 I'm trying to get more information as to whether there's
5 been anything identified for this courthouse. I don't have
6 any reason to believe it yet, but our chief judge has
7 indicated that some courthouses, we believe Dayton, there may
8 be a protest.

9 If there's a protest, if there's noise, we may need to
10 talk about whether we should suspend the trial for the day.
11 The chief has authorized administrative leave for employees
12 starting at 3:00 today, so that would suggest there may be
13 disruptions at some courthouse.

14 So I'm asking everybody to be mindful, if we start
15 hearing things, that may be what that is, and we may want to
16 revisit whether we want to suspend the trial at that point.

17 MS. GAFFNEY PAINTER: Thank you.

18 MR. C. HENRY RITTGERS: Is the *Dobbs* decision *Roe v.*
19 *Wade*?

20 THE COURT: It came out this morning. It overturned
21 *Roe versus Wade*.

22 MS. GLATFELTER: Your Honor, may I have one moment to
23 talk to my cocounsel before we go back?

24 THE COURT: You may.

25 MS. GLATFELTER: About this issue. Thank you.

1 THE COURT: Off the record.

2 (Off the record.)

3 THE COURT: Back on the record.

4 MS. GAFFNEY PAINTER: Your Honor, one other issue to
5 raise about this document.

6 Mr. Rittgers has been characterizing these as crimes that
7 Mr. Ndukwe committed.

8 THE COURT: Right.

9 MS. GAFFNEY PAINTER: If you look at the text of this
10 document, it's referencing alleged criminal activity.

11 MR. C. MATTHEW RITTGERS: We'll get into crimes in a
12 minute. Sorry.

13 MS. GAFFNEY PAINTER: So even for the impeachment
14 purposes, this isn't truth that he has committed these crimes.
15 It is a reference to an agreement discussing the protections
16 affording him to discuss these alleged crimes.

17 THE COURT: Right. But I imagine what Mr. Rittgers
18 is going to ask is, you know, are there characteristics of
19 people who serve as cooperating witnesses.

20 For example, are you concerned if they may have been
21 charged with a crime, is that something you look into, or
22 things like that.

23 MS. GAFFNEY PAINTER: Yes.

24 THE COURT: But -- and I don't know. I don't know
25 what criteria the FBI uses for deciding whether someone is a

1 cooperating witness. I would assume Special Agent Holbrook
2 would know the answer to that, so it's hard for me to answer
3 these questions. I don't know what's impeachable or not.

4 MS. GAFFNEY PAINTER: Certainly.

5 THE COURT: Yeah. Okay. We're all on the same page?

6 MR. C. MATTHEW RITTGERS: Thank you, Judge.

7 THE COURT: All right. Very good.

8 SIDEBAR CONFERENCE CONCLUDED

9 THE COURT: I'm sorry, Mr. Rittgers, you may
10 continue.

11 MR. C. HENRY RITTGERS: Thank you, Your Honor.

12 BY MR. C. HENRY RITTGERS:

13 Q. Agent Holbrook, you indicated yesterday, I believe, about
14 sources, correct?

15 A. Yes.

16 Q. And there are a couple kinds of sources. One might be
17 someone who has committed a crime, correct?

18 A. Yes.

19 Q. And when you check into a source, a source that you have
20 to supervise, you look into their background, do you not?

21 A. Yes.

22 Q. And you want to determine whether that person is going to
23 be a reliable source?

24 A. Yes.

25 Q. And you're going to determine what crimes they have

1 committed if they have committed a crime, correct?

2 A. That is correct.

3 Q. And so back in March of 2018, Mr. Ndukwe, through his
4 attorney, came to the U.S. Attorney's Office and was
5 interviewed by you and Ms. Glatfelter and Mr. Singer, correct?

6 A. That is correct.

7 Q. And during that period of time, he gave what I think you
8 guys call a proffer agreement, correct?

9 A. Correct.

10 Q. And the proffer agreement is where someone confesses to
11 acts that they have committed in order to hopefully get
12 favorable treatment from the government, or a lesser sentence
13 if they committed a crime?

14 A. That's not my understanding of a proffer agreement.

15 Q. Would you kindly tell us what your understanding is?

16 A. Yes. My understanding is a proffer agreement, as I
17 testified earlier, is an agreement between the United States
18 Attorney's Office and an individual.

19 And what it states is that individual will provide
20 truthful information to the United States Attorney's Office,
21 and the information that they provide truthful can be used
22 against them.

23 Q. Can be used against them, correct. And you can use the
24 information that is given to you during that proffer to go
25 investigate that individual further, correct?

1 A. It's not my understanding.

2 Q. Did Mr. Ndukwe, as I understand it, did he admit to
3 evading campaign finance limits by creating straw donors,
4 creating money orders in other people's names and giving them
5 to candidates?

6 A. He didn't use the term "straw donor." He told me that he
7 gave money orders and cashier's checks to local politicians in
8 other individuals' names.

9 Q. And he told you that he was doing that to evade campaign
10 finance limits; is that correct?

11 A. Yes.

12 Q. And that was back in 2013, correct?

13 A. Excuse me. I think I misspoke. Could you ask me that
14 previous question?

15 MR. C. HENRY RITTGERS: Could I ask the court
16 reporter to repeat my question, please.

17 (The record was read by the court reporter.)

18 A. Counsel, I wrote a report on that interview. Could you
19 provide that to me to refresh my memory?

20 Q. I don't have it available.

21 MR. C. MATTHEW RITTGERS: We will pull it up right
22 now.

23 MR. C. HENRY RITTGERS: I apologize for the delay,
24 Your Honor.

25 THE COURT: Oh, not at all. Mr. Rittgers, would now

1 be a good time to take the afternoon break, since we're
2 switching over, and we'll get the technology hooked up and all
3 that?

4 MR. C. MATTHEW RITTGERS: Thank you, Your Honor.

5 MR. C. HENRY RITTGERS: Thank you.

6 THE COURT: Ladies and gentlemen, it's shortly after
7 3:00. I think it is a good time to take a break anyway.

8 I would just remind you not to discuss this case with
9 each other, not to attempt to do any research regarding the
10 facts or the laws surrounding this case, not to communicate
11 with anyone, use electronic devices or otherwise about this
12 case.

13 And please do not begin to form opinions about any of the
14 charges at issue here. All of the evidence is certainly not
15 in yet.

16 With that, why don't we take -- oh, and I should tell
17 you, if anyone attempts to communicate with you regarding this
18 case, please bring it to my attention immediately.

19 With that, we'll take our afternoon break.

20 (Jury out at 3:07 p.m.)

21 THE COURT: One of the witnesses that one of the
22 parties subpoenaed has some concerns about the subpoena, so
23 I'm just --

24 COURTROOM DEPUTY: Defendants.

25 THE COURT: One of the witnesses that defendant

1 subpoenaed for the trial has some concerns about the scope of
2 the subpoena and has asked to be heard on that. And so I
3 anticipate doing that in chambers here.

4 I think they wanted to know more about the scope of the
5 testimony that's intended to be elicited. I don't think it's
6 appropriate for the government, at this juncture, to hear the
7 scope of the testimony that you intend to elicit, but I'll
8 make a further determination on that once we've conferred on
9 an ex parte basis with the subpoenaed witness and defense
10 counsel.

11 So my plan is to meet in chambers with the subpoenaed
12 witness and defense counsel, but I'm willing to hear from the
13 government on that if they have an objection.

14 MS. GLATFELTER: We don't have any objection to
15 proceeding although, at some point, we may want to discuss the
16 admissibility of the testimony.

17 THE COURT: Sure.

18 MS. GLATFELTER: We understand that to be a separate
19 question.

20 THE COURT: Absolutely. Okay. So if I can have at
21 least one of the Messrs. Rittgers for the break while the
22 other works on whatever technology issue.

23 With that, we'll take a brief recess, unless there's
24 anything else we need to discuss before we do so,
25 Mr. Singer, Ms. Gaffney Painter?

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1 MR. SINGER: Nothing, Your Honor.

2 THE COURT: Very good.

3 (The following portion of the record was placed under
4 seal by the Court and filed separately.)

5 (Brief recess.)

6 THE COURT: Mr. Rittgers, have you had an opportunity
7 to figure out whatever the technology is?

8 MR. C. HENRY RITTGERS: We're going to go with the
9 Elmo to avoid any further delay, number one.

10 Number two, with my opponent's permission, I've given the
11 302 that I was referencing to Agent Holbrook. He's familiar
12 with it now.

13 THE COURT: Do I have a copy of it as well or not?

14 MR. C. HENRY RITTGERS: Do we have another copy?

15 COURTROOM DEPUTY: I had made three and I gave you
16 the other two.

17 THE COURT: How long is it?

18 MR. C. HENRY RITTGERS: Do you want to take a look
19 while the jury is coming in?

20 THE COURT: Yeah. Why don't I take a gander at it.

21 I'll note there's some marks and highlighting. Is that
22 the way it was produced to you?

23 MR. C. HENRY RITTGERS: I don't intend to introduce
24 it as evidence. I'm just going to question him about it.

25 THE COURT: For what purposes?

1 MR. C. HENRY RITTGERS: I'm going to question him.
2 This is part of his investigation.

3 THE COURT: All right. We'll see how it goes.
4 Scott, you can bring in the jury.

5 (Jury in at 4:09 p.m.)

6 THE COURT: Ladies and gentlemen of the jury, the
7 technology was, if this can be imagined, even less cooperative
8 than we thought, but we think we've got it figured out well
9 enough to continue so, Mr. Rittgers, you may continue.

10 MR. C. HENRY RITTGERS: Thank you very much, Your
11 Honor.

12 BY MR. C. HENRY RITTGERS:

13 Q. Agent Holbrook, you've had a chance to review your 302,
14 correct?

15 A. Yes, sir, I have.

16 Q. And the date of entry at the top is April 2, correct, at
17 the very top, front page?

18 A. Yeah. So the date of this interview is on March 13th.

19 Q. I was going to get to that.

20 A. Oh, I'm sorry. I'm sorry. Yes, that's correct.

21 Q. The date of entry?

22 A. Yes.

23 Q. And you recognize this now, do you not?

24 A. I do.

25 Q. And you're correct, the meeting that this 302 was

1 produced for was a meeting that was on March 13th of 2018?

2 A. Yes. Correct.

3 Q. And during that meeting, you're aware that Mr. Ndukwe was
4 shown 25 money orders dated April 12th of 2013, and nine
5 cashier's checks dated October 22nd of 2013?

6 A. Yes. That's correct.

7 Q. And Mr. Ndukwe told you that, in April of 2013, that he
8 attended a meeting with Mr. Cranley, Mr. Smitherman, and
9 possibly Charlie Wilber; is that correct?

10 A. Winburn. Yes, that's correct.

11 Q. Thank you. At this meeting, Mr. Ndukwe told you that he
12 provided Cranley and Smitherman and Winburn campaign donations
13 in the form of money orders funded by him under the names of
14 friends and family, correct?

15 A. That's correct.

16 Q. Now, in doing this, and during this meeting back in March
17 of 2018 with Mr. Ndukwe, he admitted to evading the campaign
18 finance limits, right?

19 A. Yes.

20 Q. And I believe you do know that it's a violation of
21 52 U.S. Code, Section 30122, which is titled "Contributions in
22 the Name of Another is Prohibited"?

23 A. I did not know that statute, but I know that you are
24 correct, that is prohibited.

25 Q. Thank you. By the way, none of these money orders or

1 cashier's checks went to P.G. Sittenfeld, correct?

2 A. That is correct.

3 MR. C. HENRY RITTGERS: I apologize, Your Honor. I
4 thought I was...

5 Q. In this document that you had summarized, where you
6 summarized this meeting with Mr. Ndukwe, he admitted, did he
7 not, to giving a friend of his, a Matt Williams who lives in
8 Columbus, \$5,000 in exchange for Mr. Williams structuring
9 \$35,000 back to him in cash?

10 A. I'm not sure if -- the way it reads is Williams
11 structured the cash withdrawals from a bank and then gave the
12 cash to Ndukwe, so I'm not sure --

13 Q. Let me help you.

14 A. Yeah. Thanks.

15 Q. Mr. Ndukwe sent \$40,000 that he took out of his IRA
16 account, correct, to his friend Matt?

17 A. Correct.

18 Q. And Matt kept \$5,000 of that, correct?

19 A. That is correct.

20 Q. And then Matt returned \$35,000 to Mr. Ndukwe by using
21 different bank accounts to avoid reporting requirements,
22 banking reporting requirements, correct?

23 A. Yes. That's what's documented here.

24 Q. Thank you. And you agree that that's structuring banking
25 transactions? Do you agree with that?

1 A. I mean, I want to answer your question and be responsive.
2 I'm not that familiar with banking fraud. I don't work those
3 cases. And I'm not an attorney, so I want to answer the
4 questions the best I can based upon that knowledge.

5 Q. If I were to tell you that it was a violation of
6 structuring banking transactions, you would agree with that?

7 A. Say it again. I'm sorry.

8 Q. I said if I were to represent to you that what we just
9 talked about?

10 A. Uh-huh.

11 Q. Where his friend sent \$35,000 back from different bank
12 accounts, you would agree that that's a violation of federal
13 law, correct, structurally?

14 A. Possibly, yes. I'm not familiar with that law.

15 Q. Thank you. Would you also agree that creating money
16 orders in other people's names and forging their signature can
17 be prosecuted under a federal crime of forgery?

18 A. Yes.

19 Q. Would you also agree that forging, using other people's
20 identity, forging their signatures, is also a federal offense
21 of aggravated identity theft?

22 A. I don't doubt that you're accurate. I'm not familiar
23 with this area of law.

24 Q. Thank you. There also in the 302, where I believe you
25 indicated that Mr. Ndukwe told you that a friend of his,

1 female, had a husband in New York, the State of New York that
2 was a big-time gambler, losing hundreds of thousands of
3 dollars a year, and that Mr. Ndukwe sent him money, do you
4 remember; is that correct?

5 A. Yes. Yes.

6 Q. You never followed up with how much money that was
7 transferred to his friend?

8 A. No.

9 Q. Never did?

10 A. Never did.

11 Q. You think that wasn't something you needed to know when
12 you vetted Mr. Ndukwe to become a cooperating witness?

13 A. No. I don't believe so.

14 Q. Also in your 302, Mr. Ndukwe admitted to lying when he
15 withdrew money from his retirement account, his IRA; is that
16 correct?

17 A. States an IRA account.

18 Q. In fact, what we talked about earlier, the \$40,000 that
19 he had sent to his friend Matt, who then kept five and sent
20 \$35,000 back to him, that came from his IRA account, correct?

21 A. That's correct.

22 Q. And you were aware, are you not, that in order to
23 withdraw funds from your IRA account at an early age, that you
24 have to fill out a written statement as to the reason for
25 withdrawing that money, correct?

1 A. I'm not aware of that but, again --

2 Q. You accept that as true? Are you aware that that crime
3 is prosecuted a lot in federal courts? Are you aware of that?

4 A. I am not aware of that.

5 Q. Okay. Thank you. By the way, Mr. Ndukwe's attorney was
6 also in that meeting when Mr. Ndukwe told you all that stuff,
7 correct?

8 A. Yes, he was.

9 Q. So after he admitted to these different crimes, he agreed
10 to cooperate with you; is that correct?

11 A. Shortly thereafter, I can't remember the time frame, but
12 it was -- yes, he agreed to cooperate.

13 Q. And I take it when he began cooperating with you, you and
14 your team debriefed him as to who you all thought he could
15 catch in a crime?

16 A. That's not exactly true. May I explain?

17 Q. Oh, yeah.

18 A. We initially began meeting -- it was myself, began
19 meeting with Mr. Ndukwe. It was about understanding who
20 Mr. Ndukwe knew, not necessarily for criminal investigations,
21 but trying to understand the connections, the political
22 environment in Cincinnati, who knows who, so to speak, try to
23 understand the various business projects he's involved in.

24 There was a, you know, an investigation that was of
25 specific relevance at that time that I had in mind to utilize

1 Mr. Ndukwe on it, so...

2 Q. But you did ask him, in your debriefing session, as to
3 who might be in the community that you thought he could
4 capture or -- capture. I take that back. But who he could
5 lead your investigating team to as possible violators?

6 A. I think it's more appropriate to say we were asking him
7 questions about potential areas of public corruption, as
8 opposed to who he could catch.

9 Q. Okay.

10 A. We're looking more for evidence, as opposed to a specific
11 individual.

12 Q. Well, I take it that people were discussed, right?

13 A. Yes.

14 Q. And the people that were discussed did not include
15 P.G. Sittenfeld, correct?

16 A. That is correct.

17 Q. And, again, that was in March that you had this
18 discussion?

19 A. That is correct.

20 Q. Thank you.

21 A. End of March, beginning of April time frame.

22 Q. Now, my understanding is that at the time Mr. Ndukwe
23 turned into a cooperating witness, you knew that he had three
24 development projects in front of the city, correct?

25 A. Yes. I believe that was the case.

1 Q. And one of those was what we've been talking about here
2 for two days, this 435 Elm Street, correct?

3 A. Yes.

4 Q. And you were aware that Mr. Ndukwe got interested in
5 435 Elm Street back in 2016?

6 A. Yes. That sounds accurate.

7 Q. And you're aware that -- again, I think this was
8 discussed, but you were aware that he had purchased the air
9 rights to 435 Elm Street during a foreclosure proceeding
10 against the owners, correct?

11 A. I believe so, yes.

12 Q. And just so that we all know what air rights means, that
13 means that if anybody wanted to build -- that building was
14 ripped down, and if anybody wanted to build there, they would
15 have to go through Mr. Ndukwe, correct, because he had a right
16 to do that?

17 A. That is correct.

18 Q. Now, we've heard evidence here yesterday about the
19 condition of 435 Elm Street. Remember that?

20 A. I do.

21 Q. And my question is were you aware of the condition of
22 435 Elm Street when Mr. Ndukwe began working for you?

23 A. I understood that to be a building in significant
24 disrepair.

25 Q. Were you also aware of how significant 435 was to the

1 urban core of Cincinnati?

2 A. Yes.

3 Q. Were you aware that it was south of the Convention
4 Center, correct?

5 A. Correct.

6 Q. And you were aware that it -- the city was losing
7 convention business?

8 A. That's my understanding.

9 Q. And you also were aware that that building was costing
10 300 to 400,000 dollars a year for the city to maintain?

11 A. Yes, sir.

12 Q. And you were also aware that it was over a million
13 dollars in back taxes?

14 A. Yes, sir.

15 Q. And you were also aware that city officials wanted 435 to
16 be redeveloped because it was good for the city, correct?

17 A. City officials?

18 Q. City officials.

19 A. I was aware that city officials wanted to move it off
20 their book as a liability.

21 Q. Well --

22 A. Yeah, that's my understanding.

23 Q. That's a correct statement. I agree with that. But you
24 also agree that they wanted this property, which is in this
25 urban core of Cincinnati, to be redeveloped so it could start

1 producing income. It could produce -- I apologize. Go ahead.

2 A. No. Please finish your question.

3 Q. It could produce revenue not only in paying taxes to the
4 city, but bringing in tourists, bringing in convention
5 business, correct?

6 A. Sure. That makes sense, yes.

7 Q. When city council decided, I believe it was in July of
8 2019, and we just heard this evidence today that they wanted
9 to sell to the port 435 Elm for a buck, that all nine council
10 people had voted in favor of that?

11 A. That's correct.

12 Q. And that was a no-brainer vote, correct?

13 A. That's defense counsel's words.

14 Q. But it was. I mean, it was clearly advantageous to move
15 it on over to the port to clear tax liens and whatever other
16 liens may be on it, correct?

17 A. Advantageous for the city, yes, sir. I agree with that.

18 Q. We'll change topics here for a second.

19 In order to operate this sting, Rob and Brian, or really
20 the FBI, created a false narrative, correct?

21 A. Created what?

22 Q. Created a false narrative, meaning they introduced
23 themselves as big-time investors. That was part of the
24 scheme, right?

25 A. Yes, sir. Yes, that's correct.

1 Q. And they represented to everybody that they were the
2 money behind Mr. Ndukwe's project?

3 A. That's correct.

4 Q. Now, you agree -- in pretending that they were investors,
5 you agree that Rob and Brian lied to P.G. It was a lie. They
6 were not really investing in Mr. Ndukwe's project, correct?

7 A. That's correct.

8 Q. But the lie was is that they were the money behind it?

9 A. That's correct, yes.

10 Q. They lied to other city officials, didn't they?

11 A. Yes. If you're referencing they're pretending to be
12 somebody they're not as a lie, then yes, that is true.

13 Q. Not only pretending that they're somebody they're not,
14 but also pretending that they were the money behind
15 435 Elm Street to redevelop it?

16 A. That is correct.

17 Q. So this lie was perpetuated for at least 18 months during
18 this operation, correct?

19 A. Yes, counselor, but let me be clear that what you're
20 referring to as a lie is an FBI investigative technique that's
21 been used for years. It is legal and lawful to do so.

22 Q. I am not suggesting that it --

23 A. Okay. I want to be clear.

24 Q. But I think you had already testified to that yesterday.

25 Well, my question is is that during this 18 months, while

1 you all were representing -- "you all" being your agents
2 representing themselves being the big money behind 435 and
3 Ndukwe, no one knew that Mr. Ndukwe confessed to acts of
4 dishonesty, did they?

5 And what I'm referring to is what we just went through,
6 what you said in your 302. No one knew that?

7 A. Well, he told us about it. I don't know if that's
8 dishonest.

9 Q. Well, I should say no one outside of your team and the
10 prosecutors, no one outside of that small group knew that
11 Mr. Ndukwe had admitted to acts of dishonesty to crimes. Is
12 that true?

13 A. Potential crimes. Dishonesty, I hesitate to agree with.

14 Q. Oh. So forging somebody's name is not a crime of
15 dishonesty?

16 A. Again, it gets into an area that I'm just not that
17 familiar with.

18 Q. Well, do you think that when the city and the port and
19 P.G. were thinking of tax incentives and other incentives to
20 get this strategic piece of property redeveloped, 435 Elm, did
21 you think that it was kind of important for all those people
22 to know what was going on, that this was a lie?

23 A. It was an undercover operation to -- I can't agree to
24 calling it a lie.

25 Q. So your investigation or targeting of Mr. Sittenfeld

1 started when Mr. Ndukwe claimed that Mr. Sittenfeld had
2 requested him to fundraise \$10,000, correct?

3 A. That's incorrect.

4 MR. C. HENRY RITTGERS: Let me have one second, Your
5 Honor.

6 I apologize, Your Honor.

7 THE COURT: You're fine.

8 MR. C. HENRY RITTGERS: If I may speak to --

9 THE COURT: You may.

10 MS. GAFFNEY PAINTER: Thank you.

11 MR. C. HENRY RITTGERS: Your Honor, may I approach
12 the witness?

13 THE COURT: You may.

14 MR. C. HENRY RITTGERS: Would the Court like a copy?

15 THE COURT: I would. Thank you.

16 BY MR. C. HENRY RITTGERS:

17 Q. Now, this is a 302 -- I'm sorry. Have you had a chance
18 to review it? Are you familiar with it?

19 A. Yes, I am familiar with this document.

20 Q. And this is -- let me back up a little bit so the jury
21 understands.

22 It's my understanding, under your protocols and the
23 attorney general's protocols for targeting a domestic person,
24 doing an investigation, you have to do an assessment, correct,
25 of that individual?

1 A. I'm not following you.

2 Q. Do you have to do an assessment before you decide to
3 target someone?

4 A. What do you mean by assessment?

5 Q. Well, I always assumed that that's FBI parlance. Do you
6 have to do an investigation?

7 A. So if -- let me answer the question this way and see if
8 this is where you're going to.

9 Q. Fair enough.

10 A. For the FBI to identify an individual as a subject, there
11 is required an articulable factual basis that a crime has been
12 committed or may have been committed, is being committed or
13 may have been committed, or will be committed or may be
14 committed. That's what is required to predicate someone as a
15 subject of the FBI. Is that fair enough? Does that answer
16 your questions?

17 Q. Yeah. That's fair enough.

18 A. Okay.

19 Q. But as a result, do you do an investigation prior to
20 that?

21 A. I wouldn't call it an investigation. I mean, we can come
22 across information through open sources, through a different
23 source where there's not an investigation going on, so it
24 doesn't have to be an investigation into the individual.

25 And when you say an investigation, I'm thinking that it's

1 a -- you know, a technical official FBI investigation.

2 Maybe to your word, it might be better to call it an
3 assessment would be fair, I guess, would be a fair way to
4 phrase it.

5 Q. So when your team decided to target Mr. Sittenfeld, it
6 was because -- and I'm looking at the synopsis. Do you see
7 that there at the bottom?

8 And you wrote, "P.G. called CHS," and that's Mr. Ndukwe,
9 correct?

10 "P.G. called CHS for \$10,000 campaign donation," correct?

11 A. You asked me two questions back to back. I'm not sure
12 which one --

13 Q. I want to know whether the synopsis that you put down
14 here -- and I apologize if I'm not being very clear.

15 A. Okay.

16 Q. The synopsis on your 302 --

17 A. This is not a 302.

18 Q. This document, this is a 302 or a case agent summary?

19 A. This document is referred to as an FD1023. I commonly
20 refer to it as a source reporting document. I just didn't
21 want it to be called a 302.

22 Q. You did not want to call it a 302?

23 A. It's not a 302, that's all I was telling you.

24 Q. I gotcha. I gotcha. But anyway, the synopsis says,
25 "P.G. called CHS --" who is Mr. Ndukwe?

1 A. That's correct.

2 Q. -- "for \$10,000 campaign donation," right?

3 A. Yes, sir.

4 Q. And as a result of that, you began your investigation of
5 P.G. Sittenfeld, correct?

6 A. That's incorrect. This did not -- first, let me back up.
7 You asked me a question earlier about this, we started
8 targeting Mr. Sittenfeld in September 2018. That's not true.

9 Q. I take that back. It's October. What I'm driving at
10 here -- maybe I can help both of us out.

11 A. I can answer the question much quicker if you want me to
12 tell you when Mr. Sittenfeld became a subject. Is that
13 better?

14 Q. Sure.

15 A. Mr. Sittenfeld become a subject on October 30, 2018.

16 Q. Okay. But the reason he became a suspect, or what have
17 you, was because of this call that is in your synopsis saying
18 that Sittenfeld had requested Ndukwe to fundraise \$10,000,
19 correct?

20 A. That is not the reason. This -- in this source reporting
21 document, this is not the information that resulted in us
22 predicating Mr. Sittenfeld as a subject of an investigation.

23 That did not happen until October 30th of 2018, is when
24 Mr. Sittenfeld becomes the subject of the investigation.

25 Q. Well, as a result of Mr. Sittenfeld requesting Mr. Ndukwe

1 to fundraise, you directed and instructed Mr. Ndukwe to call
2 Mr. Sittenfeld on October 26th, correct?

3 A. It's partly correct. I need to expand just a bit so I
4 can be more clear.

5 There was a series of events that culminated in
6 September -- well, I should say October 25th of 2018 that made
7 Mr. Sittenfeld interesting to the FBI because he had potential
8 information regarding other investigations that were ongoing.

9 Q. Who had that information?

10 A. Mr. Sittenfeld. I suspected Mr. Sittenfeld had
11 information that would be relevant to the FBI regarding other
12 ongoing investigations.

13 Q. But you never approached Mr. Sittenfeld requesting
14 information, did you?

15 A. That's true.

16 Q. So instead of asking Mr. Sittenfeld for information, you
17 directed Mr. Ndukwe to make a phone call to Mr. Sittenfeld on
18 October 26th. It's one of the things we all heard, right?

19 A. Yes, Counselor. And the reason is it's common that
20 people in positions, elected officials -- well, really, it
21 could be developers or anybody, is not likely to either speak
22 to us or provide us the full story or accurate information.

23 So if we utilize sources or undercover agents, they can
24 obtain information that may be more accurate. The person may
25 be likely to tell them versus telling us, so I deployed that

1 technique to obtain information.

2 Q. Correct me if I'm wrong. Up until that point,
3 Mr. Sittenfeld was not a suspect of breaking any law, correct?

4 A. Correct.

5 Q. And so not being a sus- -- I mean, are you saying that
6 you don't approach citizens that may help you without first
7 recording a call to see if they're going to admit to some
8 crime or anything?

9 A. Certainly, we do. Yeah, it depends on the situation.
10 You have to take the totality of the circumstances and what --
11 and it's a judgment call on the case agent, what technique is
12 best to ascertain or uncover or obtain the information that
13 you're looking for. So it's not always the same answer every
14 time. It has to be taken in context.

15 Q. At that time, I'm talking about in October of 2018, did
16 you know that asking a friend or a business acquaintance, that
17 it was not against the law to fundraise if you're a candidate?
18 Are you aware that that's not against the law?

19 A. Yes, sir.

20 Q. You knew it at that time?

21 A. Uh-huh.

22 Q. All right. So let's turn to October 26th, when
23 Mr. Ndukwe made the phone call to Mr. Sittenfeld per your
24 instructions?

25 A. Yes, sir.

1 Q. And I take it that there was no information or contact
2 between September 21st, when Mr. Sittenfeld had contacted
3 Mr. Ndukwe, and October 26th. Is that your understanding?

4 A. Contact between who?

5 Q. Phone calls between the two of them.

6 A. Two of? I'm sorry. I'm trying to --

7 Q. That's okay. Between Mr. Ndukwe and Mr. Sittenfeld?

8 A. There might have been a contact made between that time,
9 but I'm not sure.

10 Q. Would that have been -- I'm sorry, I didn't mean to cut
11 you off.

12 A. It might have been --

13 THE COURT: Wait. You can't both talk at the same
14 time.

15 THE WITNESS: Sorry, Judge.

16 MR. C. HENRY RITTGERS: I apologize, Judge.

17 Q. It wasn't -- it would have been something you would have
18 reported in the different phone calls that we all saw being
19 introduced into evidence, correct?

20 A. Are you asking if it was a recorded phone call?

21 Q. No, no. Just a phone call, phone contact.

22 A. Between Mr. Sittenfeld and Mr. Ndukwe between the
23 September 21st and October 26th?

24 Q. Yeah.

25 A. The one call that I'm aware of -- again, it wasn't

1 recorded -- was on September 21st.

2 Q. Right.

3 A. And my confusion, I just wanted to be clear, between
4 September 21st and then October 25th, I'm not sure off the top
5 of my head there's any contacts between Mr. Ndukwe and
6 Mr. Sittenfeld, whether it's a hang-up or what. I just wanted
7 to be clear, so that's all.

8 Q. Thank you. Well, you did obtain Mr. Sittenfeld's phone
9 records, correct?

10 A. Yes.

11 Q. And I take it you reviewed them?

12 A. Yes. But obviously, I don't have them committed to
13 memory.

14 Q. Let me ask you this: If there had been a phone call from
15 Ndukwe to Sittenfeld or from Sittenfeld to Ndukwe between
16 September 21st and October 26th, you would have noted that
17 based on those phone records, correct?

18 A. Yes. All I'm saying, Counselor, is, I just want to be
19 clear. I didn't want to answer that there was no contact
20 because it could have -- there may have been someone called --
21 one party called the other party and the call didn't go
22 through, that's all I'm saying.

23 Q. Gotcha. Thank you. So now turning to the October 26th
24 call. You instructed Mr. Ndukwe to inform Mr. Sittenfeld that
25 the 435 Elm Street project was heating up, correct?

1 A. Yes, sir. That's correct.

2 Q. And Mr. Sittenfeld's response was good, right?

3 A. That's my recollection.

4 Q. And Mr. Ndukwe --

5 A. Counselor, could I pull up that transcript that we were
6 discussing?

7 Q. Sure.

8 A. Okay.

9 Q. I have no objection.

10 A. Let me -- if someone could help me with the exhibit
11 number?

12 MR. C. MATTHEW RITTGERS: 12B.

13 Q. 12B.

14 A. Thank you. Counselor, I'm ready. Thank you.

15 Q. I think we covered the main points almost, except for
16 one.

17 A. Okay.

18 Q. You gave instructions. You told him to tell P.G. that
19 435 was heating up, correct?

20 A. Yes.

21 Q. And P.G. said it was good, good that it was heating up.
22 And then you told him to tell P.G. that he had a lot of --
23 that he had out-of-town investors with a lot of LLCs, correct?

24 A. That's correct.

25 Q. And why did you instruct him to say that he had a lot

1 of -- he had investors with a lot of LLCs?

2 A. Yeah.

3 Q. Why did you instruct him to say that?

4 A. Thank you. So the purpose of that call was to introduce
5 Mr. Sittenfeld to Rob and Brian. That was the whole purpose
6 of it.

7 And the reason that the LLCs was referenced in there was
8 because I knew Mr. Sittenfeld was raising funds from LLCs, so
9 it was a reason that he'd be interested in talking to Rob and
10 Brian because he's fundraising.

11 The LLCs was just to -- as a reason to introduce
12 Mr. Sittenfeld to Rob and Brian. Otherwise, if Ndukwe called
13 Sittenfeld and said, hey, I know Rob and Brian, would you like
14 to meet them? It really wouldn't make a lot of sense, so
15 that's why the LLCs was mentioned.

16 Q. Okay. So P.G. Sittenfeld said okay. So then you
17 instructed Mr. Ndukwe to make another call on October 30th?

18 A. That's correct.

19 Q. All right. And during that call is when Mr. Ndukwe
20 indicated that he was, I think his word, sideways with
21 Mayor Cranley, correct?

22 A. Correct.

23 Q. And because he was sideways with Mayor Cranley, he didn't
24 want any donation to Mr. Sittenfeld to come back to him,
25 because he was afraid that Mayor Cranley would veto his

1 projects that were in front of the city?

2 A. That's correct.

3 Q. And in response to that, Mr. Sittenfeld said, I don't
4 care if it's in your name or if it's in your group of business
5 associates and friends, correct?

6 A. Correct.

7 Q. And there's nothing illegal with that, is there?

8 A. If the business associates are donating with their money
9 and their name, you are correct.

10 Q. So the next phone call -- and I believe you said -- well,
11 next phone call was November 2nd?

12 A. November what?

13 Q. November 2nd?

14 A. Yes, sir.

15 Q. And I believe you told us -- I can't remember whether it
16 was this morning or yesterday when we were talking about this,
17 that you wanted Mr. Ndukwe to make a clear offer, correct?

18 A. Yes. A clear offer of money for votes, yes.

19 Q. Yes. So Mr. Ndukwe, per your instructions -- by the way,
20 when these calls are made, are you or another FBI agent
21 sitting with Mr. Ndukwe?

22 A. No.

23 Q. He's making it all on his own? He's just recording it
24 and he's making it on his own?

25 A. Yes. He can --

1 Q. No one is sitting next to him giving him instructions?

2 A. No. I can't remember a time in this investigation that I
3 was ever in the same location as Mr. Ndukwe making a call.

4 And the reason is he's busy, you know, it's not like it's
5 hard to get to the same place. So no, to answer your
6 question, I was not there.

7 Q. Just curious.

8 A. Yeah.

9 Q. You said during this phone call, again, per your
10 instructions, that Mr. Ndukwe said that he could raise
11 20,000 bucks?

12 A. Yes.

13 Q. In donations, right?

14 A. Yes.

15 Q. And Mr. Sittenfeld was very happy about that, and he
16 thought -- correct me if I'm wrong, he thought that that would
17 take a couple years for these investors to donate 20,000
18 bucks, right?

19 MS. GAFFNEY PAINTER: Your Honor, objection. Special
20 Agent Holbrook can't testify to what Mr. Sittenfeld thought.

21 THE COURT: Sustained.

22 MR. C. HENRY RITTGERS: Did I say that?

23 THE COURT: I think you did.

24 MR. C. HENRY RITTGERS: I apologize.

25 Q. I'll rephrase the question. Agent Holbrook, Mr. Ndukwe

1 told Mr. Sittenfeld that he had good news for him. And he
2 said that the good news was that he -- his investors can come
3 up with \$20,000 in donations, correct?

4 A. Did he say donations? I don't believe they say
5 donations. It says -- may I read it to you?

6 Q. Sure.

7 A. It says, "But the good news is, I'll probably be able to
8 get you close to \$20,000 over the next couple."

9 Q. But it's all in reference to donations, correct? It's
10 not \$20,000 that he's going to give him in cash, it was
11 donations, that's what he was referencing, correct?

12 A. Not necessarily.

13 Q. Well, would you agree that Mr. Sittenfeld was surprised
14 when he was told that Mr. Ndukwe's investors can come up with
15 \$20,000?

16 MS. GAFFNEY PAINTER: Objection, Your Honor. Special
17 Agent Holbrook can't testify to the emotional state of
18 Mr. Sittenfeld.

19 THE COURT: Sustained.

20 Q. Did Mr. Sittenfeld reply to this \$20,000 -- by the way,
21 that \$20,000 was \$10,000 more than Mr. Sittenfeld had
22 requested for Mr. Ndukwe to raise, correct?

23 A. Yes.

24 Q. And when Mr. Ndukwe, per your instructions, said that he
25 can get \$20,000, that was a number that you had instructed

1 Mr. Ndukwe to say to Mr. Sittenfeld?

2 A. Actually, that's incorrect. I instructed Mr. Ndukwe to
3 say \$10,000. He got confused and said \$20,000.

4 Q. Really?

5 A. Yeah.

6 Q. And when Mr. Ndukwe said \$20,000, Mr. Sittenfeld said
7 great. He can get \$20,000 in two years, whatever, that would
8 be wonderful, correct?

9 A. Something like that, yes.

10 Q. And then in response to that, Mr. Ndukwe said, "No, not
11 two years, two weeks," correct?

12 A. Yes.

13 Q. Now, it's at this point when Mr. Ndukwe was following
14 your instructions to get a clear offer, money for a vote,
15 right?

16 So during this phone conversation, Mr. Ndukwe says but,
17 but these guys are going to want a yes vote whether it's this
18 year, next year, three years down the road, correct?

19 A. Yes, something like that.

20 Q. And he was tying that to the 20,000 bucks, which is what
21 you wanted, right? He was tying the \$20,000 donation to a yes
22 vote?

23 A. Yes, that's correct.

24 Q. That's what he was telling Mr. Sittenfeld, correct?

25 A. Yes. Correct.

1 Q. And at that point, Mr. Sittenfeld said immediately,
2 "There can be no quid pro quo," correct?

3 A. He said, "Obviously, nothing can be illegal, like
4 illegally, nothing can be a quid pro quo."

5 Q. Meaning he wasn't going to trade a yes vote for a \$20,000
6 campaign donation, correct? That's what it means?

7 A. I think it means he made a statement that nothing can be
8 a quid pro quo, and he is correct.

9 Q. Would you agree that the only explicit agreement in this
10 entire case is where Mr. Sittenfeld said he was not -- that
11 there was going to be no quid pro quo, and Mr. Ndukwe
12 acknowledged that and said, "Yeah, yeah"?

13 MS. GAFFNEY PAINTER: Objection, Your Honor,
14 reference to "explicit."

15 THE COURT: Fill me in.

16 MS. GAFFNEY PAINTER: May we go to sidebar?

17 THE COURT: Yes.

18 SIDEBAR CONFERENCE

19 MR. SINGER: Explicit is a legal term that is a form
20 of art, and the jury will be instructed as such per the jury
21 instructions.

22 THE COURT: Oh, I see. Okay. So it's actually an
23 element of the offense?

24 MR. SINGER: Yes.

25 THE COURT: Oh, I see.

1 MR. C. MATTHEW RITTGERS: Can he not ask if it's a
2 factual question and also an element?

3 THE COURT: So the problem is, if you use the
4 phrasing from the statute, it's not going to be clear whether
5 the witness is using the term in common parlance or as it's
6 used in the statute, so you have to be very careful to not
7 inadvertently get testimony that appears to directly read on
8 to the statute from the witness.

9 It's a legal conclusion as an element of the offense. It
10 would be asking him to give a legal conclusion, which he can't
11 do.

12 MR. C. MATTHEW RITTGERS: Couldn't there be a
13 limiting instruction on it where it's a factual question?

14 MR. C. HENRY RITTGERS: I'll rephrase the question.
15 I'll withdraw that question, and I'll just ask him if it was a
16 clear statement that he wasn't.

17 SIDEBAR CONFERENCE CONCLUDED

18 Q. I'm going to rephrase that question.

19 A. Yes, sir.

20 Q. When Mr. Sittenfeld told Mr. Ndukwe that there was going
21 to be no quid pro quo --

22 A. No. He didn't say that. He said, "Nothing can be a quid
23 pro quo." He didn't say there can be no quid pro quo.

24 Q. I'm not quoting exactly.

25 A. Okay. Well, there's a big difference.

1 THE COURT: All right. Again, you can't talk over
2 each other.

3 THE WITNESS: Sorry.

4 MR. C. HENRY RITTGERS: I apologize, Judge.

5 Q. You can phrase it. What was that again?

6 A. He said, "Illegally, nothing can be a quid pro quo."

7 Q. And Mr. Ndukwe's response was, "Yeah, yeah, yeah,"
8 correct?

9 A. Yeah.

10 Q. And that was a clear rejection of Mr. Sittenfeld wanting
11 to exchange his vote for a \$20,000 donation, correct?

12 A. Absolutely not.

13 MR. C. HENRY RITTGERS: Judge, may we approach for a
14 second, one second?

15 THE COURT: Okay.

16 SIDEBAR CONFERENCE OFF THE RECORD

17 THE COURT: Counsel noted the time. It's 5:05 and it
18 is a Friday. He suggested he still has a fair amount of time
19 to go with the cross-examination of this witness.

20 We've been hoping to maybe get the cross-examination
21 completed, but it doesn't look like that's going to happen, so
22 I think this is an appropriate time to break for the weekend.

23 I know that I always do an admonition whenever we break,
24 but it takes on a little bit more significance, so I'd like to
25 talk about it a little bit longer right now because we're

1 going to be gone for two days.

2 And I know that with people at home for the next couple
3 of days, the possibility to be inadvertently exposed to media
4 stories, or for curiosity to get the better of one when you're
5 home for a couple of days.

6 I just really want to stress that it is important to a
7 fair trial that you not seek out information from other
8 sources about other people's perceptions about what's going on
9 at trial, and that you not seek out or attempt to do any type
10 of investigation on your own, whether through media stories or
11 otherwise, about anything that's been discussed during this
12 trial or about the charges; that you not communicate with
13 anyone, and I'm sure that to the extent some of your friends
14 know you're on a jury, they might have questions about how has
15 it been going, or things of that nature.

16 It's really very important -- you don't need to be rude,
17 but that it's just important that you tell them that you
18 really can't discuss what's going on at trial. You're happy
19 to talk to them about it after it's all over, whatever, but we
20 just can't be in a situation where we don't know what sources
21 of information you may have received from outside this
22 courtroom.

23 It's so important to both parties that this case be
24 decided on the information that you receive in this courtroom,
25 rather than information that one of you may have received from

1 somebody else.

2 So I do really want to stress that it's important that
3 you not communicate with anyone, and that if anyone should
4 attempt to communicate with you about this case, that you
5 bring it to the Court's attention on Monday, but that you
6 don't discuss it with other jurors or anything else.

7 We can talk to the Court, and if one of you inadvertently
8 reads or hears or sees something, we can talk about whether
9 that's important or not.

10 But with that, I'm going to release you for the weekend.
11 We will start up, if you can try to be here at 9:00 on Monday,
12 there may be some issues that the parties need to discuss.
13 But today we actually did a pretty good job, I think, of
14 getting you into the courtroom shortly after 9:00.

15 It is the Court's hope -- I know we're running long days.
16 I am trying to get this done as quickly as I can. I know this
17 is an imposition on everybody's time, and I do appreciate your
18 service, and I know the parties appreciate your service on
19 this jury, so we will try to keep moving things along as
20 efficiently as we can.

21 Please know that if you get here by 9:00, we've all been
22 here for a while before that to try and get things done before
23 you get here, so we are trying to do what we can do, and we
24 will continue to do that.

25 So everybody have a good weekend, and we look forward to

1 seeing you on Monday.

2 COURTROOM DEPUTY: Judge, should it be 8:50?

3 THE COURT: No. I think if you can assemble by 9:00
4 in the jury room, I sincerely doubt we'll be bringing you in
5 at 9:02. If you're here by 9:00, I think we'll be able to get
6 started relatively promptly on Monday morning.

7 (Jury out at 5:09 p.m.)

8 THE COURT: As I understand between the parties, you
9 are going to provide Mr. Sittenfeld's attorneys a list of the
10 witnesses you intend to call on Monday by noon tomorrow; is
11 that right?

12 MR. SINGER: That's correct, Your Honor.

13 THE COURT: And I imagine you've already provided
14 them notice of who you intended to call next because that
15 person arguably was going to go on this afternoon; is that
16 right?

17 MR. SINGER: That is correct.

18 THE COURT: Okay. And, as I understand it, you're
19 thinking that hopefully by Monday sometime you'll have a
20 better sense of what your schedule looks like for the week and
21 when you may be resting your case; is that right?

22 MR. SINGER: That's correct, Your Honor.

23 THE COURT: Very good. Thank you, Mr. Singer.

24 Is that your understanding, Mr. Rittgers, of the way this
25 is going to proceed?

1 MR. C. MATTHEW RITTGERS: Yes, Your Honor.

2 MR. C. HENRY RITTGERS: Yes.

3 THE COURT: Is there anything the parties wish to
4 discuss on the record before we recess for the weekend?

5 MS. GLATFELTER: Yes, Your Honor. We do need to talk
6 to our case agent about scheduling, because he has been the
7 contact for a few of our witnesses. So I would ask the
8 Court's permission just about scheduling, to make sure that's
9 taken care of over the weekend, not to talk about any
10 substance or any testimony.

11 THE COURT: Any objection?

12 MR. C. MATTHEW RITTGERS: None, Your Honor.

13 THE COURT: Okay. Subject to the constraint that you
14 just set forth, that sounds fine.

15 MS. GLATFELTER: Thank you, Your Honor.

16 THE COURT: Anything else?

17 MS. GLATFELTER: No, Your Honor.

18 THE COURT: Anything from the defense?

19 MR. C. HENRY RITTGERS: No, Your Honor.

20 THE COURT: Very good. You guys all have a good
21 weekend as well. Please try to be in the courtroom maybe like
22 by 10 'til 9:00 on Monday so we can deal with anything we need
23 to before we bring in the jury.

24 MR. C. HENRY RITTGERS: Thank you, Your Honor.

25 THE COURT: All right. We can recess.

(Proceedings adjourned at 5:11 p.m.)

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C E R T I F I C A T E

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I, M. SUE LOPREATO, RMR, CRR, certify that the foregoing
is a correct transcript from the record of proceedings in the
above-entitled matter.

/s/ M. Sue Lopreato
M. SUE LOPREATO, RMR, CRR
Official Court Reporter

September 30, 2022

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